

Leonard Thomas Walker
#04039-017
Federal Correctional Institution
P.O. Box 1500
Butner, NC 27509

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

Leonard Thomas Walker
Plaintiff,

V.

United States Attorney,
District of Florida
Pensacola Division
Defendant,

§
§
§
§
§
§
§

Case No. 3:09cv337/MCR/MD
(To be assigned)

Civil Lawsuit in Accordance
with 5 U.S.C. § 552(a)(4)(B)

COMPLAINT UNDER FREEDOM OF INFORMATION ACT

JURISDICTION

This Honorable Court has jurisdiction to rule on the case at bar under 28 U.S.C. § 1331 and 5 U.S.C. 552.

VENUE

Is proper in this district because events pertaining to this action occurred in this district. 28 U.S.C. 1391(B).

Plaintiff, Leonard Thomas Walker contends that all the following people have took part in perpetrating a **FRAUD** on him during the proceeding of the case at bar, US V WALKER 3:96CR00076-001. As follows:

- | | |
|---|----------|
| 1. Judge Lacy Collier | 10-16-96 |
| 2. US Attorney P. Michael Patterson | 10-16-96 |
| 3. Assistant US Attorney Kenneth S. Korea | 10-16-96 |
| 4. Clerk of US District Court | 10-16-96 |
| 5. The Court Stenographer | 10-16-96 |
| 6. Robert W. Nance the Foreperson | 10-16-96 |
| 7. Probation officer (PSI)(PSR) | 10-16-96 |

Filed 08/11/09 JSD:DF/3M1127

Jma

All from the Northern District of Florida-Pensacola Division.

The petitioner Leonard Thomas Walker appeared in United States District Court, Northern of Florida-Pensacola Division on October 16, 1996 with Attorney Ted A. Stokes, also present were the following: Judge Lacy Collier Northern District of Florida Pensacola Division; the Assistant US Attorney Kenneth S. Korea; The Clerk of Court; Robert W. Nance; US Attorney P. Michael Patterson; a Court stenographer and a Court report. All of which can be subpoenaed at an evidentiary hearing on Walker's claim of Fraudulently Manufactured Indictment that was defective on 10-16-96. Based upon all of the above failed to comply with Fed. R. Crim. P. Rule(6)(g)(f)and &(c)(1)that governs indictment by a Federal Grand Jury.

On October 16, 1996-I, Leonard Thomas Walker Appeared in the United States District Court Northern District of Florida-Pensacola Division with my attorney Ted A Stokes. When the Court was convened into session, the Judge could not find an indictment filed on Walker

The Judge asked the Clerk of Courts for the indictment, the Clerk of Courts could not find a filed indictment on Leonard Thomas Walker. When Walker heard that the Judge, the Clerk of Courts did not have properly filed indictment on him, he stated to his attorney and the Court that the Judge should let him go out of the courtroom and go free.

The Judge ask the Clerk of Courts if there was any one in the Grand Jury room the Clerk stated they had all gone out of the Grand Jury room. The Clerk stated to the Judge that the forms from the indictment were made out.

The Judge ordered the Clerk of Courts to go the Grand Jury room and get the indictment forms. The Judge viewed the indictment form and stated that there were no signatures on the indictment and there was not a place on the indictment for a signature.

The Judge handed the indictment back to the Clerk of Court. The Clerk stated she would type the proper place for the signature onto the indictment form. The Clerk had to leave the Courtroom once again, to type the place for signature on the indictment.

The Judge ask the Assistant US Attorney(AUSA)if he could sign the indictment, the AUSA Kenneth S. Korea told the Judge he could not sign the indictment but the US Attorney(USA)P. Michael Patterson could sign the indictment. The Judge ordered the US Attorney to appear in the Courtroom to sign the indictment. By this time, the Clerk of Court had come back into the Courtroom. The Clerk of Courts stated I got lucky and ran into one of the Grand Juror in the elevator.

The Juror appeared in the Courtroom with the Clerk. His name was **Robert W. Nance**. The Judge asks Mr. Nance if he was a Grand Jury Foreperson. Mr. Nance told the Judge he was not a Grand Jury foreperson.

The Judge ordered the US Attorney to swear Mr. Nance in as a Grand Jury foreperson. After Mr. Nance was swore in he then signed the indictment. Then the US Attorney signed to indictment. Then the AUSA signed the indictment in the Courtroom without complying with Fed. R. Crim. P. Rule(6)(g)(f)and(c)(1)that governs indictment by a Federal Grand Jury.

The Clerk of Court then gave the fraudulently obtained indictment to Judge Lacy Collier. The Judge stated to the Clerk of Court that there was no indictment number on the indictment.

the Clerk stated she would write the number on the indictment.

The Clerk then wrote the indictment number 3-96-CR-76-RV on the indictment. (See all exhibits attached.) This indictment obtained on Leonard Thoms Walker was filed in open Court without a Federal Grand Jury being seated outside the Grand Jury room.

The endorsing on the indictment was fraudulent, deceptive, misleading, falsified and formed outside the Grand Jury room, without 12 Grand Jury members being seated, which has deprived Leonard Thomas Walker of due process of law, and equal protection under the 5th, 6th, 9th, 10th, and 14th Amendments to the US Constitution, and has prejudiced Leonard Thomas Walker during the proceeding of the case at bar [US v Walker Case Number #3-96-CR-76-RV].

Based upon the fact that indictment was fraudulently manufactured on Walker on 10/16/96, Leonard Thomas Walker states that a fraud has been perpetrated against him in filing the indictment on him on 10/16/96 and the fact that the indictment was defective that did not charge all the elements of each charged offense, no quantity of cocaine and cocaine base was charged in the indictment presented to a Judge or Jury Walker was guilty beyond a reasonable doubt of the quantity of drugs he was sentenced to Life imprisonment on 5/6/97. See Fed. R. Crim. P. Rule(7).

The indictment filed on Walker on 10/16/96 failed to descent into particulars to place Walker on proper notice of what he was charged with, to protect Walker from twice being tried for the same offense, or from receiving cumulative punishment fro a single offense.

Nor did the indictment protect Walker from doubl jeopardy. Based upon all of the above Leonard Thomas Walker contends that he did not receive due process of law during the time the indictment forms were being made up in the Grand Jury room to wit

1. Was the Federal Grand Jury in the Northern District of Florida-Pensacola Division conducted pursuant to US v R. Enterprise(III), S Ct 722, 726(1991),

When the Grand Jury was ruling on the indictment forms on case 3-96-CR-76-RV where there no signature of Grand Jury foreperson on the indictment and indictment was signed in Courtroom on 10/16/96 outside of Grand Jury room without 12 Grand Jury members being seated and in violation of Fed. R. Crim. P. Rule (6)(g)(f)and(c)(1)that governs indictment by a Federal Gand Jury?

2. Did the Gand Jury act as a shield between the government and the defendant Leonard Thomas Walker to protect his 5th amendment right to due process of law, pursuant to Wood v. Georgia 82 S Ct, 1364, 1373(1962)?

3. Was the Grand Jury acting independently of the government or Judge pursuant to Stirone v. US 80 S Ct 270(1960)?

4. Did the 5th Amendment Grand Jury clause act as a safeguard designed to protect Walker from oppressive government practices pursuant to US FX Rel Toth v. Quarles 76 S Ct 1 (1955)?

5. Was the Federal Grand Jury degraded into a rubber stamp and the testing of the government evidence into an empty ritual pursuant to U.S. v. Mudarris, 695 F.2d 1181, 1182 (9th Cir. 1983)?

6. Was the prosecutorial misconduct and outrageous conduct in front of the Grand Jury pursuant to U.S. v. Samango, 607 F.2d 877 (10th Cir. 1979)?

7. Did the AUSA to wit the government expressed their opinion on the weight and sufficiency of evidence or testimony pursuant to U.S. v. Wells, 163 F. 313 (D. Idaho 1909)?

8. Did the Grand Jury have freedom of deliberation in re subpoena pursuant to 920 F.2d 235, 241 in 8 (4th Cir. 1990)?

9. Did the AUSA to wit the government usurp the functions of the Federal Grand Jury pursuant to U.S. v. Isgro, 751 F. Supp. 846, 850 (9th Cir. 1990)?

10. Did the AUSA Kenneth S. Korea and U.S. Attorney P. Michael Patterson violated their oath of office on 10/16/96 when both signed the indictment in open Court without complying with Fed. R. Crim. P. Rule (6)(g)(f) and (c)(1) form of indictment by a Federal Grand Jury. See U.S. Constitution Article VI § 2 and and 3. Also, see Ethical Standards for Attorneys for the government under the Department of Justice (DOJ) section 530(b), 311(a) Chapter 31, title 28 U.S.C. that governs errors, perjury, and civil rights and prejudices. The petitioner Leonard T. Walker contends that Judge Lacy Collier, the US Attorney P. Michael Patterson, the AUSA Kenneth S. Korea, the Clerk of Courts, the Court stenographer and Robert W. Nance all from the Northern District of Florida - Pensacola, Division took part in perpetrating a fraud against Leonard T. Walker in the proceedings of the case at bar, US v Walker Case Number 3-96-CR-76-RV. The The US Probation Office (PSI)(PSR)Northern District of Florida - Pensacola Division joined the perpetration that fraud against Walker by setting a sentencing range under a fraudulently manufactured indictment on 10/16/96 in open Court without a seated grand jury, to wit 12 seated Grand Jury members.

All of the above took part in violating all of the following:

1. Title 18 USC § 552 ET Seq False and Misleading Records and other.

2. Title 18 USC § 35 Conveying False and Misleading Information and other.

3. Title 18 USC § 1001, Et Seq Fraud and False Statements and other.

4. Title 18 USC § 1018 Official Government Writing and Document and others.

5. Title 18 USC § 1501 Et Esq. Obstruction of Justice and other.

6. Title 18 USC § 1621 Et Seq. Perjury, Generally and Subornation of perjury.

7. Title 18 USC § 1901 Et Seq. Public Officials and Employees.

8. Title 18 USC § 2071 Et Seq. Records and False Reports, et. al.

9. Title 26 USC § 7206 Fraud and False Statements

10. Title 28 USC § 1745 Willfully Using False material as true.

11. Title 18 USC § 3 After the facts.

12. Title 18 USC Willfully causing to be done.

13. US Constitution Article VI Section § Clause 1, same privileges.

14. US Constitution Article VI Section § 2 and § 3.

The Attorney General of the United States through the Department of Justice (DOJ) is responsible for all Assistant US Attorneys actions or none action in the United States District Court and the forming Federal indictment Fed. R. Crim. P. Rule (6)(g)(f), 7(c)(1). And during the prosecution of the defendant. And to make sure Assistant US Attorney comply with the Code of Ethical Standards of the United States Department of Justice and the US Constitution Article VI § 2 and § 3.

See Ethical Standards for Attorney for the Government § 530(b), which staters that the US Attorney's shall abide by the US Consti-tution and by all civil rights there under by oath.

See also Ethical Standards for Federal Prosecutors, Section 311 (2) Chapter 31 of Title 28 USC, dealing with Errors, perjury and civil rights. As well as bias and prejudice conduct by all Federal Prosecutors to with (US) Attorney et. al.).

See also Complaints to the Attorney General under 530 (b) section 322(a) states that a written statement shall be submitted to the Attorney General of the United States. If the person believed that Federal employees to wit Assistant US Attorneys engaged in conduct described in Section 821(a) constitutional and civil rights, bias, prejudices, perjury. See US Constitution Article VI, Clause § 2 and § 3, Article III, Section 1.

Judge Lacy Collier also violated his oath of office on 10/16/96 by taking part in perpetrating a fraud on Leonard Thomas Walker by allowing a fraudulently manufactured indictment to be formed in an open courtroom, without 12 Grand Jury members being seated, then allowed the indictment to be signed in open court, where the court failed to comply with Fed. R. crim. P. rule (6) and (6)(f) and 7(1) that governs Federal indictments. Violations of 5th and 6th Amendments.

See oath of all Federal Judges Public law 96-303, Section 3(3) 1194 stat 855, 556 (July 3, 1980) 28 USC § 453. The oath of all Federal Judges is to uphold the US constitution and make reassuring readings. All Federal Judges swear by God that they will administer the without respect to persons and do equal rights to the poor and the rich and faithfully and impartially discharge and perform all duties incumbent upon them, Under the laws and constitution of the United State, So help them God.

PARTIES

Plaintiff is a citizen of the United States of America, and presently incarcerated in the Federal Correctional Institution II Butner, NC P.O. Box 1500 Butner, NC 27509.

CLAIM FOR RELIEF

Plaintiff submitted a Freedom of Information and request to the United States Attorney for the Northern District of Florida Pensacola Division. In support plaintiff attaches copies of original Freedom of Information Request, decision of the Executive Office for United Attorneys and final denial from the Office of Information Privacy US Department of Justice in Washington, DC.

WHEREFORE, plaintiff respectfully prays judgment against the defendant as follows:

1. That defendant be enjoined from withholding the requested records.

2. That defendant be ordered to release the requested records within a specified period of time.

3. That defendant be ordered to pay to plaintiff all attorney's fees and costs incurred in this action.

4. That Courts official schedule or calendar for October 16, 1996 or equivalent document that lists cases docketed on that day.

5. The records of counsel for the Defense(Petitioner) that would indicate when his representation of the Petitioner began, that would include but not be limited to the case file, billing records, vouchers for costs, phone message slips. Material or documents that indicate counsels whereabouts on 10/16-1996. (Ted Allen Stokes)

6. Records of the Respondent that would indicate the location of the U.S. Attorney assigned to the case Mr. Korea. That would most likely be in the case file of this case, this would also include documents related to the interaction the U.S. Attorney P. Michael Patterson and Mr. Robert W. Nance the Foreperson and others had with the grand jury that indicted the Petitioner. Any record in the same court room as the Petitioner.

7. The official records that by law must be kept in regards to the grand jury that indicted the Petitioner. This would include but not be limited to the Names of the Foreperson, Deputy Foreperson, any one who replaced either foreperson and the circumstances involved.

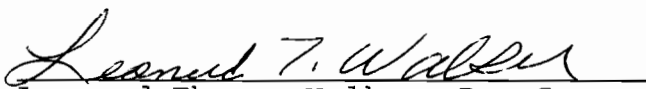
Records that would indicate the manner in which the grand jurors were selected, records that would affirm or corroborate the events sworn to in the Petitioners affidavit of truth that was filed.

(See attached affidavit of indigency)

8. Any other relief that this Court would deem prudent and proper in the resolution of the factual dispute presented by the response of the Respondent to the Petitioners motion.

9. Plaintiff further ask for damages in the amount \$16,000,000.00.

Respectfully submitted,


Leonard Thomas Walker, Pro Se
04019-017 FCI-2 Butner
PO Box 1500
Butner, NC 27509

DECLARATION/AFFIDAVIT

I, Leonard Walker, declare under penalty of perjury that the facts and documents attached to the heretofore complaint are true and correct to the best of my knowledge and belief, pursuant to 28 uSC 1746.

Executed on this _____ day of _____, 2009.


Leonard T. Walker

EXHIBITS 1

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NOTHERN DISTRICT OF FLORIDA
(Pensacola Division)

LEONARD THOMAS WALKER,	§	
Plaintiff on	§	Criminal INDICTMENT/
Counterclaim, Sui Juris	§	Docket No. #:96-CR-76-RV
	§	
V.	§	
	§	
UNITED STATES OF AMERICA	§	
Defendant and	§	
Counterclaimant	§	

**AFFIDAVIT
OF
TRUTH**

I Leonard Thomas Walker, being of Lawful age and competent to testify state as follows based on my own personal knowledge and experience:

1. On October 16, 1996, I appeared with my Attorney; Mr. Ted A. Stokes, before the Honorable Judge Lacy Collier.
2. When the Court was convened in session, the Judge looked through his papers and documents before him and could not find the CRIMINAL INDICTMENT for LEONARD THOMAS WALKER, he asked the Clerk of the Court for the INDICTMENT.
3. She, the clerk, looked through her paperwork and documents and found no CRIMINAL INDICTMENT for LEONARD THOMAS WALKER whatsoever. The Clerk informed the Judge that she did not have an INDICTMENT for Mr. Walker.
4. At that instant, I stood up and said to my lawyer and the Court, "They should let me go because they do not have an INDICTMENT on me."
5. The Judge asked the clerk if there was anyone in the Grand Jury room. The Clerk replied, "Everyone had gone home." The Clerk stated to the Judge that "The forms in reference to the indictment were already made out."
6. The Judge ordered for the Clerk to return to the Grand Jury room to render the INDICTMENT. The Clerk left the Courtroom and upon appearance, she presented the fraudulently manufactured indictment to the Judge.

7. The Judge viewed the indictment thoroughly and observed that there were no signatures on the indictment, nor a place for a signature. The Judge handed the falsified BILL back to the Clerk.
8. The Clerk stated that she would type the proper place for the signature onto the bogus document. As there was no typewriter in the Courtroom, therefore, she had to remove herself to her office and type in the proper place for the signatures.
9. While the Clerk was out of the Courtroom, the Judge asked the Assistant U.S. Attorney, Mr. Kenneth S. Korea, if he could sign the Indictment. Mr. Korea stated that he "could not sign it, but the U.S. Attorney, Mr. P. Michael Patterson, could sign the Indictment.
10. The Judge ordered the U.S. Attorney, Mr. P. Michael Patterson, to appear in the courtroom and sign the Indictment.
11. After her reappearance in the courtroom from her office; the Clerk stated, "I got lucky and ran into a Grand Juror in the elevator." The Grand Juror appeared in the open courtroom with the Clerk.
12. The Judge asked the Grand Juror if he was a Foreperson. The legally unqualified jury person replied to the Judge that he wasn't. The Judge instructed the U.S. Attorney to swear in the single, individual Grand Juror to be a Foreperson.
13. The U.S. Attorney stated that a court stenographer and reporter needed to be present to record everything that was said in the courtroom. The Judge ordered the stenographer to appear. When the stenographer arrived, the judge illegally swore in Mr. Robert W. Nance as the Foreperson of a non-existent and non-appearing Grand Jury. After this, Mr. Nance signed the indictment as the Foreperson, along with the U.S. Attorney, and the Assistant U.S. Attorney.
14. The U.S. Attorney and the Foreperson removed themselves from the courtroom after indorsing the fraudulent INDICTMENT. The Clerk handed the indictment back to the Judge. Upon reviewing it again and observing the TRUE BILL and INDICTMENT number was missing, the Judge handed the indictment back to the clerk and informed her that the case number was missing, she stated to the Judge that she could write the number in.
15. The CLERK OF THE COURT wrote the number in and gave it back to the Judge.
16. The actions constitute the U.S. Attorney and the Grand Juror as corroborating, participating in, and endorsing a fraudulent, deceptive, misleading, falsified and incomplete indictment.

17. As a result of the preceding pattern of acts against me, I have suffered and been damaged/prejudiced financially, socially, and economically as well as wrongfully imprisoned, unjustly convicted, and restrained in person and property of my liberty as guaranteed by the United States Constitution of America.

Respectfully Submitted,


LEONARD THOMAS WALKER

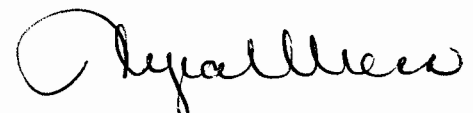
#04039-017 Unit L/A

FCI Butner II

Butner, N.C. 27509

8-14-08

St of NC:
County of Granville


Comm exp 11-4-09

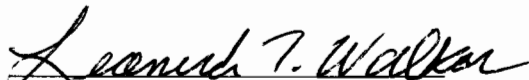
STATE OF NORTH CAROLINA)
COUNTY OF GRANVILLE)

INDIVIDUAL ACKNOWLEDGE
ss.

Before me, the undersigned, a Notary Public in and for said County and State on the
14TH day of AUG, 2008, personally appeared LEONARD THOMAS WALKER to me
known to be the identical person who executed the within and foregoing instrument and
acknowledged to me that he executed the same as his free and voluntary act.

Given under my hand and seal the day and year last about written. Commission
expires 11-4-09.

/s/ 
Notary Public


Leonard Thomas Walker
#04039-017 Unit L/A
P.O. Box 1500
Butner, N.C. 27509

EXHIBITS 2

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

SEP 6 2006

UNITED STATES OF AMERICA

v.

INDICTMENT

3:96 cr 76/RV

LEONARD THOMAS WALKER

THE GRAND JURY CHARGES:

COUNT I

That during September, 1996, in the Northern District of Florida, the defendant,

LEONARD THOMAS WALKER,

did knowingly and willfully combine, conspire, confederate, agree, and have a tacit understanding with other persons, to possess with intent to distribute cocaine and cocaine base, which are controlled substances, in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A).

All in violation of Title 21, United States Code, Section 846.

FILED IN OPEN COURT

10/14/96

CLERK U. S. DISTRICT COURT

COUNT II

That on or about September 3, 1996, in the Northern District of Florida, the defendant,

LEONARD THOMAS WALKER,

did knowingly and willfully possess with intent to distribute cocaine and cocaine base, which are controlled substances, in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A).

A TRUE BILL:

Robert W. Nance
FOREPERSON

October 16, 1996
DATE

P. Michael Patterson
P. MICHAEL PATTERSON
UNITED STATES ATTORNEY

Kenneth S. Korea
KENNETH S. KOREA
Assistant U. S. Attorney

EXHIBITS 3



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

MAY 18 2009

Mr. Leonard T. Walker
Register No. 04039-017
Federal Correctional Institution
Post Office Box 1500
Butner, NC 27509

Re: Appeal No. 09-1260
Request No. 08-4175
ADW:MTC

Dear Mr. Walker:

You appealed from the action of the Executive Office for United States Attorneys (EOUSA) on your revised request for access to records pertaining to yourself, specifically "all documents from [your October 16, 1996 appearance] before Judge Lacy Collier."

After carefully considering your appeal, I am affirming EOUSA's action on your request. EOUSA informed you that it could locate no records responsive to your request. I have determined that EOUSA's response was correct and that it conducted an adequate, reasonable search for records responsive to your request. Additionally, I note that there is no docket entry indicating that a hearing occurred on October 16, 1996, in your criminal case No. 3:96-cr-00076-RV-MD-1. The docket entries for that date show the filing of an Indictment, Information Sheet, and an Order for issuance of an arrest warrant.

If you are dissatisfied with my action on your appeal, you may file a lawsuit in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Janice Galli McLeod
Associate Director

EXHIBITS 4

FREEDOM OF INFORMATION / PRIVACY ACT OF 1974

To: Attorney General of the From: Leonard T. Walker#04039-017
Department of Justice F.C.I. Butner 2
10 Street and Constituion P.O. Box 1500
Avenue, NW Washington DC Butner, NC 27509
20530

Pursuant to Title 5 U.S.C. § 552 and all other relevant sections and parts, I, as identified in the right hand section above, hereby request the following information be relinquished to me:

On October 16, 1996, I appeared with my Attorney; Mr. Ted A.
Stokes, before the Honorable Judge Lacy Collier. I need the
name and address of the court reporter/stenographer in the
proceedings, re: USDC NDFL Case no: 3:96cr76/RV

The swear in Mr. Robert W. Nance
I will pay all costs up to and including \$25.00 for the costs.
Please notify me of your appeal process.

If there are any rules and regulations which govern your agency in such matters, or that interfere with your agency complying with my request, please forward them to me so that I can do my best to comply with them pursuant to the Freedom of Information Act of 1974 (FOIA).

If for any reason any of the above requested information or material is deemed to be privileged and exempt under FOIA, please specify the statutory reasons for the exemption with the name and title of the person or persons making the decision to withhold the information or material.

Per the dictates of the FOIA, your agency has ten (10) working days to respond to this request. In the event I do not receive a response by the end of this time period, I will deem this as a formal denial of my request and seek judicial remedy.

Inmate Name: Leonard Walker Reg. No. 04039-017

Sworn and subscribed before me on this date: 08/26/2008

NOTARY PUBLIC: [Signature]

My Commission Expires: 11/4/09

EXHIBITS 5


U.S. Department of Justice

Executive Office for United States Attorneys
 Freedom of Information & Privacy Staff
 600 E Street, N.W., Suite 7300, Bicentennial Building
 Washington, DC 20530-0001
 (202) 616-6757 FAX: 616-6478 (www.usdoj.gov/usao)

Requester: Leonard Walker Request No.: 08-4175 DEC 12 2009

Subject: Self (court reporter)/FLN

The Executive Office for United States Attorneys (EOUSA) has received your Freedom of Information Act/Privacy Act (FOIA/PA) request. It has been assigned the above number. Please give us this number if you write about your request. If we need additional information, we will contact you within two weeks.

Your request will be placed in the order in which it was received for processing, unless it is a very large request (Project Request). Then, it will be placed in a separate group of Project Requests, which are also processed in the order received.

EOUSA makes every effort to process most requests within a month (20 working days). There are some exceptions; for example, Project Requests usually take approximately nine months to process. Requests for "all information about myself in criminal case files" are usually Project Requests. If you have made such a request, you may either write us and narrow your request for specific items, or you may expect that the processing of your request may take nine months from the date of this letter.

By making a FOIA/PA request, you have agreed to pay fees up to \$25, as stated in 28 CFR § 16.3(c), unless you have requested a fee waiver. Please note that pursuant to 28 CFR § 16.11, if you have not been granted a fee waiver, we are required to charge fees for time used to search for the documents you have requested and for duplication of all pages released to you. Normally, search time is charged at a rate of \$28 per hour after the first two hours which are free, and duplication fees are \$0.10 per page after the first 100 pages which are free. Please do not send any payment at this time! If we anticipate that fees will exceed \$25 or the amount you have stated in your letter (if greater than \$25), we will normally notify you of our estimate of fees. After we have received your agreement to pay for the expected fees (or you have narrowed your request to reduce fees) and we have processed your request, we will require payment for the accumulated charges before we release documents to you. Without such payment, your request file will be closed without further action.

If you wish to revise your request to try to reduce fees, you may use the attached form. If you do not wish to incur fees for your request as it is now stated, please submit this form (or your letter revising your request) to us within 15 days so that your request, and fees, can be limited.

Sincerely,

William G. Stewart II

William G. Stewart II
 Assistant Director

Requester: Leonard Walker

Request Number: 08-4175

CHOOSE ONE

☒ I understand that I am entitled to the first 100 pages and 2 hours of search time free. Please search only up to 2 hours and process only up to 100 pages that can be released to me.

☐ I wish to withdraw my request.

☐ I wish to revise my request to try to reduce fees. Please limit my request to the following documents:

I appeared before Judge Lacy Collier on October 16, 1996 who was sitting in for the judge who had my case. The judge who was on my case was Judge Roger Vinson at which time he was not available, so Judge Collier sat in for Judge Vinson. At this time, I am requesting "Any and ALL documents from such date and time when I was before Judge Lacy Collier.

Re: USA-V-Walker Case No. 3:96 CR 76/RV

(Please note that a search for specific records may sometimes require more search time and fees).

☒ Please search only up to the following number of hours: _____

I understand that search payment will be required even if no documents are located or released to me. In the event that documents are located and released to me, I understand that I may be charged duplication fees in addition to search fees.

Leonard T. Walker
Name

12-19-08
Date

Please return to:

EOUSA
FOIA/PA
600 E. Street, N.W., Room 7300
Washington D.C., 20530

EXHIBITS 8

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

LEONARD T. WALKER
Petitioner,

v.

CASE NO. 3:96-cr-76/RV
/08-10642-B

UNITED STATES OF AMERICA
Respondent.

MOTION TO OBTAIN THE FACTUAL RECORD OF THE
PROCEEDINGS OF MY INDICTMENTS BY THE GRAND JURY
IN OPEN COURT BEFORE A FEDERAL MAGISTRATE JUDGE
PURSUANT TO 28 U.S.C. § 753 (b).

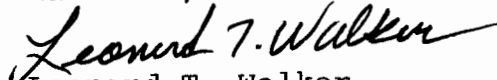
COMES now defendant, Leonard T. Walker, pro se, and asserts,
that he was indicted in open court on October 16, 1996.

Federal Rules of Criminal Procedure, Rule 6 (f) Indictment
and Return. A grand jury may indict only if at least 12 jurors concur.
The grand jury--or its foreperson or deputy foreperson--must return
the indictment to a magistrate judge in open court. If a complaint
or information is pending against the defendant and 12 jurors do
not concur in the indictment, the foreperson must promptly and in
writing report the lack of concurrence to the magistrate judge.

COURT ACTION REQUESTED

Defendant, respectfully requests to be furnished with a true
copy of the ACTUAL PROCEEDINGS by the court reporter that was
recorded during the return of his indictment in open court before
a Federal Magistrate Judge by the grand jury.

RESECTFULLY submitted
March 28, 2008


Leonard T. Walker

Register No.04039-017
Federal Medical Center
PO Box 1600
Butner, North Carolina 27509

- CERTIFICATE OF SERVICE -

This is to certify that a true and correct copy of this document/
filing was mailed by the defendant on March 28, 2008 from Federal
Medical Center, PO Box 1600, Butner, North Carolina, to the United
States Attorney's Office, Northern District of Florida, 21 East
Garden Street, Suite 400, Pensacola, Florida 32501.

SIGNED



Leonard T. Walker
Federal Medical Center
PO Box 1600, Butner, NC 27509

EXHIBITS 9

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

UNITED STATES OF AMERICA
Respondent/Plaintiff

Vs.

CASE NO.: 3:96-CR-76-RV

LEONARD T. WALKER,
Defendant/Petitioner

**MOTION IN TRAVERSE TO GOVERNMENT'S RESPONSE
TO DEFENDANT'S MOTION FOR FACTUAL RECORD PURSUANT
TO RULE 47 OF THE FEDERAL RULES OF CRIMINAL PROCEDURES**

COMES NOW, the Defendant, Leonard T. Walker, and acting Pro-se, motions this Honorable Court in Traverse to the Government's response to his motion for factual record. He states the following in support of this Traverse.

The Government takes the position that Defendant's motion seeks the production of a record that is sealed by the rule of secrecy of grand jury proceedings. According to the Government the transcripts Defendant seeks is protected by the secrecy clause of the grand jury, under Rule 6 of the Federal Rules of Criminal Procedures.

However, the Defendant is not seeking copies of the grand jury proceeding's transcripts, he is truthfully seeking transcripts of the proceeding

that took place before the Honorable Court on October 16th, 1996. The Honorable Court's docket sheet for this case clearly shows that a proceeding took place on October 16, 1996. This proceeding took place in open Court before the Defendant, Trial Counsel and U.S. Attorney. Pursuant to Statutory mandate, all proceedings held in open court is accessible to the general public by way of transcripts, see 28 U.S.C.S. 753.

While courts have recognized a common law right to inspect and copy judicial records, the right is not absolute. 28 U.S.C.S. 753 requires that court proceedings be recorded by a reliable method, including stenographic means or audiotape, and requires that the court reporter file the original records with the court. 28 U.S.C.S. 753(b). In considering whether a court reporter's backup tapes constitute judicial records, the United States Court of Appeals for the Seventh Circuit has noted that backup tapes are not an original record of proceedings, nor are they filed with the court. A party may obtain audiotapes which constitute original records, but may only obtain a court reporter's backup tapes if there is reason to doubt the accuracy of the stenographic transcript. See **S.E.C. v. Van Waeyenberghe**, 990 F.2d 845, 848 (5th Cir. 1993).

In the Defendant case, each party has a different account of what took place on October 16, 1996. However, by providing a transcript or tape recording of the actual proceeding the Defendant can demonstrate to this Honorable Court that his indictment was not presented to a full grand jury. The

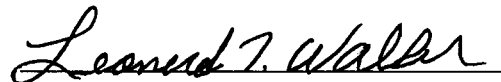
indictment in this case was signed by a grand juror alone, before the Honorable Court in open court session.

The Defendant has a right to a factual record of the actual proceeding that took place on October 16th, 1996.

CONCLUSION

• **WHEREFORE**, the Defendant hopes and prays that this Honorable Court grants his motion for a factual record of the proceeding that took place on October 16th, 1996.

Respectfully submitted

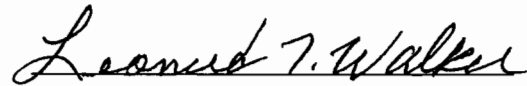
A handwritten signature in cursive script, reading "Leonard T. Walker", written over a horizontal line.

Leonard Walker, Pro-se
Reg. #04039-017
F.C.I. Butner II
P.O. Box 1500
Butner
North Carolina 27509

CERTIFICATE OF SERVICE

I DO HEREBY, certify that a true and correct copy of the foregoing was mailed to the United States Attorney's Office for the North District of Florida, Att. Benjamin W. Beard, A.U.S.A., 21 E. Garden Street, Pensacola, Florida 32502, on this 9th, day of June, 2008, by paid First Class United States Postage Stamp.

Respectfully submitted

A handwritten signature in black ink that reads "Leonard T. Walker". The signature is written in a cursive style with a horizontal line underneath the name.

Leonard Walker, Pro-se
Reg. #04039-017
F.C.I. Butner II
P.O. Box 1500
Butner
North Carolina 27509

EXHIBITS 10

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

LEONARD T. WALKER

PETITIONER

CASE No. 3:99cv113/RV/MD

V.

3:96cr76/RV

UNITED STATES OF AMERICA

RESPONDENT

MOTION TO COMPELL THE PRODUCTION OF
DOCUMENTARY EVIDENCE, AND FOR THE ISSUANCE OF SUBPOENAS

Comes now the Petitioner in the above entitled and captioned motion. To pray that the Honorable Court grant this motion for cause and in the interest of justice. And pursuant to the applicable Federal rules of Civil and criminal procedure.

The Petitioner would ask and pray that this Court command the custodians of the various records listed in this motion, to provide to the Petitioner, the Court, and the Respondent with certified copies of the documents listed in this motion. And to do so forthwith.

The Petitioner would further ask that this Court order the production of said documents be done without cost to the Petitioner as the Petitioner is indigent(see attached affidavit of indigency)

The Petitioner will support this motion and list the documents requested in an attached memorandum in support.

Respectfully Submitted

A handwritten signature in cursive script, appearing to read "Leonard T. Walker", written over a horizontal line.

Leonard T. Walker Pro Se

MEMORANDUM IN SUPPORT

FACTS OF THE CASE RELAVENT TO THIS MOTION

On or about 7/17/06 the Petitioner filed a motion for relief of judgement pursuant to Rule 60 (B)(6). On or about 8/1/06 the Respondent filed a motion in opposition to the Petitioners motion. In the Respondents motion were allegations that the Petitioner falsely swore to facts in his affidavit of truth attached to the rule 60 (B) (6) motion he filed. The Respondent went as far as to suggest the Petitioner had possibly committed perjury in filing the affidavit (See Petitioners exhibit's -1,2,&3) .

On or about 8/3/06 this Court denied the Petitioners motion for relief of Judgement. On or about 9/26/06 the Petitioner did file a timely notice of appeal, and is now in the process of seeking appellate review of this case and related issues.

ARGUMENT

The Respondent has in it's response to the Petitioners motion called into question the veracity, accuracy ,and truthfullness of the Petitioners affidavit of truth. Especially in regards to the events of October 16,1996 as they relate to this case. They are as follows. Who was in court on that day and what happened there? What was the Grand Jury doing and who was the foreperson? What did the Court do in regard to the grand jury and the selection of the foreperson? Did the Petitioner make any objection to what was done in regards to the grand jury process?

The Petitioners affidavit does at this moment stand alone as admissable evidence in this " factual dispute". The bald assertions of the Respondent in it's response are not admissable as evidence.

Certified copies of the official records and related documents could be admissable in further proceedings to determine the facts that are in dispute. The actions of the Respondent in accusing

MEMORANDUM IN SUPPORT

ARGUMENT (continued)

.....the Petitioner of perjury, and in disputing the basic facts of the Petitioners affidavit. Have opened the door for the Petitioner to seek from this Court the production of documents that prove the facts sworn to in the Petitioners affidavit, and to refute the allegations of the respondent.

It is well established by legal custom, and pursuant to the Federal Rules of Civil Procedure (See rules -26,34,37,&45) Federal Rules of Criminal Procedure(See rules -5,5.1,6,7,16,& 17) that a party in a factual dispute before the Courts may seek the an order or subpoena from said Court for the production of most types of evidence including documentary evidence, including that which is held by the Respondent in this case and records of this Court.

The Petitioner has presented to this Court by way of affidavit evidence of what took place on October 16,1996 before this Court. The Respondent disputes that. Let us see what the record say's.

CONCLUSION

In regards to this motion and the factual dispute as to who was in the Court, and what transpired there. There can be no valid reason to object to the production of the documentary evidence that the Petitioner is requesting. It is in the interest of justice, it will prevent an injustice. The request is neither burdensome over reaching, complex or otherwise challenging. Therefore it should be granted.

MEMORANDUM IN SUPPORT

RELIEF REQUESTED

The Petitioner would ask that the Honorable Court order the custodian of the documents listed below. Be ordered to produce certified copies of the requested document forthwith. And that subpoenas be issued to accomplish the above request. The Petitioner would also ask that this be done at no cost to the Petitioner is indigent (See attached affidavit of indigency)

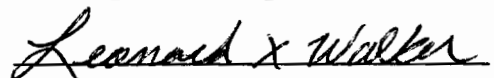
- 1.This Courts official schedule or calendar for October 16,1996 or equivalent document that lists cases docketed on that day.
- 2.The records of counsel for the Defense(Petitioner) that would indicate when his representation of the Petitioner began,that would include but not be limited to the case file,billing records, vouchers for costs,phone message slips. Material or documents that indicate counsels whereabouts on 10/16/96.(Mr.T.Allen Stokes)
3. Records of the Respondent that would indicate the location of the U.S. Attorney assigned to the case Mr. Korea. That would most likely be in the case file of this case,this would also include documents related to the interaction the U.S. Attorney Mr. Korea and others had with the grand jury that indicted the Petitioner. Any documents that show that on October 16,1996 the U.S. Attorney was in the same court room as the Petitioner.
4. Any record in the possession of the Escambia county Florida Sheriffs Department that show that they transported the Petitioner from the county jail to the Federal Courthouse on 10/16/96 and or billed the Court or U.S. Marshals Service to do so.
5. Records of the U.S. Marshals service that show that they paid for the care custody and or transportation of the Petitioner on or about October 16,1996.

MEMORANDUM IN SUPPORT

RELIEF REQUESTED (continued)

6. The official transcript of any Court proceedings that involved the Petitioner. Especially those on or about October 16, 1996, and transcripts of other related proceedings that were had in this case and appear in the docket sheet.
7. The official records that by law must be kept in regards to the grand jury that indicted the Petitioner. This would include but not be limited to the Names of the Foreperson, Deputy Fore person, any one who replaced either foreperson and the circumstances involved. Records that would indicate the manner in which the grand jurors were selected, records that would affirm or corroborate the events sworn to in the Petitioners affidavit of truth that was filed with the Petitioners Motion for relief of Judgement under Rule 60 (B).
8. Any other relief that this Court would deem prudent and proper in the resolution of the factual dispute presented by the response of the Respondent to the Petitioners motion.

Respectfully Submitted



Leonard T. Walker-Pro Se
04039-017
U.S. Penitentiary, Mc Creary
P.O. Box 3000
Pine Knot, KY 42635

Certificate of Service

I, LEONARD T. WALKER hereby certify that I have served a true and correct copy of the following:

MOTION TO COMPELL THE PRODUCTION OF
DOCUMENTARY EVIDENCE, AND FOR THE ISSUANCE OF SUBPOENAS,
AND APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND
AFFIDAVIT OF INDIGENCY

which is deemed filed at the time it was delivered to prison authorities for forwarding
[Houston v. Lack 101 L.Ed.2d 245 (1988)] upon the defendant(s) and or his/her
attorney(s) of record by placing same in a sealed, postage prepaid envelope
addressed to: The Respondent in this action at their place of Business

The office of the U.S. Attorney
Attn: Kenneth Korea
21 East Garden st, ste 400
Pensacola, FL 32502-5675

and by depositing same in the United States Mail at the United State Penitentiary,
McCreary on this 30 day of 10

Leonard T. Walker
(Name)

Leonard T. Walker Pro Se
U.S. Penitentiary, Mc Creary
P.O. Box 3000, Pine Knot, KY 42635
(Address)

Pine Knot, KY 42635

(City, State, Zip)

United States District Court

Northern DISTRICT OF Florida, Pensacola Division

LEONARD T. WALKER
Plaintiff /Petitioner

APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT of Indigency

V.

UNITED STATES OF AMERICA
Defendant /RESPONDENT

CASE NUMBER: 3:99 cv 113/RV/MD
& 3:96cr76/RV

I, LEONARD T. WALKER declare that I am the (check appropriate box)

☒ petitioner/plaintiff/movant ☐ other

in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 USC. §1915 I declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion.

In support of this application, I answer the following questions under penalty of perjury: Pursuant to

28 USC §1746
1. Are you currently incarcerated? ☒ Yes ☐ No (If "No" go to Part 2)

If "Yes" state the place of your incarceration USP Mc Creary, P.O. Box 3000-Pine Knot, KY 42635

Are you employed at the institution? Yes Do you receive any payment from the institution? yes

Attach a ledger sheet from the institution(s) of your incarceration showing at least the past six months' transactions.

2. Are you currently employed? ☒ Yes ☐ No

a. If the answer is "Yes" state the amount of your take-home salary or wages and pay period and give the name and address of your employer. (see attached financial statement)

b. if the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer.

3. In the past 12 twelve months have you received any money from any of the following sources?

a. Business, profession or other self-employment	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b. Rent payments, interest or dividends	<input type="checkbox"/> Yes	<input type="checkbox"/> No
c. Pensions, annuities or life insurance payments	<input type="checkbox"/> Yes	<input type="checkbox"/> No
d. Disability or workers compensation payments	<input type="checkbox"/> Yes	<input type="checkbox"/> No
e. Gifts or inheritances	<input type="checkbox"/> Yes	<input type="checkbox"/> No
f. Any other sources	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No (see item 2)

If the answer to any of the above is "Yes" describe each source of money and state the amount received and what you expect you will continue to receive.

EXHIBITS 11

TO: Robert W. Nance
960 Aquamarine Drive
Pensacola, FL GB-32563

FROM: Leonard T. Walker #04039-017
Butner FCI-Medium II
P.O. Box 1500
Butner, N.C. 27509

Dear Mr. Nance,

Once again I find myself with no recourse but to infringe upon your privacy. I pray that you will be cooperative and show me the courtesy of adhering to my request.

Enclosed you will find an "affidavit". Will you read over it, and if you find the contents to be true and correct, please sign it and have it notarized.

Thank you for your time in this matter. Please forward the signed "affidavit" to the above address.

Sincerely,

Leonard T. Walker

**UNITED STATES DISTRICT COURT
FOR THE ELEVENTH CIRCUIT**

CASE NO. 3:96-76-RV

UNITED STATES OF AMERICA

V.

LEONARD THOMAS WALKER

SWORN AFFIDAVIT

I, Robert W. Nance, being of lawful age and competent to testify state as follows:

Based on my own personal knowledge and experience;

1. On October 16, 1996, I appeared with the Clerk in open court.
2. The Judge the Honorable Lacy Collier, asked if I was a foreperson? I answered **No**.
3. The Judge then told me that he could swear me in so that I could sign the indictment.
4. The Judge did swear me in as the foreperson and I signed the indictment in open/court.

Robert W. Nance,

Address:

960 Aquamarine Dr.
Pensacola, FL. GB-32563

Subscribed and sworn before me this ____ day of _____ 2008.

My Commission expires: _____.

SEAL:

NOTARY PUBLIC

EXHIBITS 12

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

LEONARD THOMAS WALKER)	CRIMINAL CASE No.3-96-CR-76-RV
Petitioner/Defendant,)	
)	
Versus)	
)	
THE UNITED STATES OF AMERICA,)	
Respondent)	
_____)	

**WRIT OF HABEAS CORPUS 28 USC § 1651(A) TO CHALLENGE SUBJECT
MATTER JURISDICTION**

NOW COMES the Petitioner and Defendant herein, LEONARD THOMAS WALKER, appearing in and of his own behalf, as a pro se litigant, and respectfully moves this Honorable Court to grant WALKER instant Writ of Habeas Corpus, challenging subject matter jurisdiction over case at bar, US v. Walker, Case Number 3-96-CR-76-RV, which sentenced Walker to Life Imprisonment on or about May 6, 1997.

JUDICIAL NOTICE

This Honorable Court has jurisdiction to rule on the case at bar under 28 USC § 1331 (a), that gives Federal US District Courts jurisdiction to rule over all civil cases in District Court under the laws and treaties under the US Constitution.

This Honorable Court can issue the Petitioner a Writ of Habeas Corpus under 28 USC § 1651 (a), the Federal All Writs Act that gives District Courts and all Courts set up by legislation the authority to issue Writ of Habeas Corpus in aid of their Jurisdiction. See 28 USC § 1331 (a) and 28 USC § 1651.

This Honorable Court can set aside the judgment it passed on Walker on 5-6-97 to life imprisonment 10 years of supervised release under rule 60 (b)(6). Rule 60 (b) (6) states that parties are preserved opportunity to obtain vacature of judgment that is void for lack of subject matter jurisdiction. Since absence of jurisdiction altogether deprives a Federal Court of the power to adjudicate the case. See Gonzalez v Crosby 545 US 1255 S Ct 2641

162 L. Ed 2d 480 (2005) Steel Co v Citizens for Better Environment 523 US 83 94 140 L Ed 2d 210 118 S Ct 1003 (1998) See also US v Cotton Lexis 3565 (2000) US v Griffin 303 US 226 82 L. Ed 764 58 S Ct 601 (1938).

This Honorable Court can correct all errors that took place during the proceedings of the case at bar under the Fed R Crim P Rule 52 Plain Errors. Have a new PSI/PSR made up under Fed R Crim P Rule 32 (c) and resentence Walker under Fed R. Crim P. Rule 32 sentencing.

The Writ of Habeas Corpus are recognized as the essential remedy to safeguard a citizen against imprisonment by state or nation in violation of his/her constitution rights See Darr v Bufford 339 US 200 203 204 94L. Ed 761 766 70 S Ct 587 Kurtz v Moffit 115 US 487 494 29 L Ed 458 459 65 S Ct 148 Kaufman v US 390 US 217 22 L Ed 2d 227 89 S Ct 1068 (1969).

The US Constitution article 1 § 9 Cl 2 states and I quote "The privilege of the Writ of Habeas Corpus shall not be suspended unless in times of invasion or rebellion, the public safety may require it." See Fay v NOIA 372 US 391 399 414 (1963) Wright v West 505 US 277 283 90 (1992).

STATEMENT OF THE CASE

The Petitioner was indicted on a two count indictment on or about October 16, 1996. Count one – knowingly, willingly, combine, conspire, confederate, agree and have a tacit understanding with other persons to possess with intent to distribute cocaine and cocaine base which are controlled substances in violation of 21 USC § 841 (a)(1) (b)(1)(a), all in violation of 21 USC § 846; count two – knowingly and willfully possess with intent to distribute cocaine and cocaine base which are controlled substances in violation of 21 USC § 841 (a) (1) (b) (1) (a). Both offenses came about in September 1996.

The Petitioner entered a not guilty pleas to the charges filed on him as stated above. The Petitioner went to a jury trial on or about January 6 and 7, 1997. The jury found the Petitioner guilty of count one and count two on 1-7-97. The Petitioner and his attorney filed several motions on the case at bar prior to trial including a suppression motion, which the Court denied on or about 12-13-96. See docket sheet for details on motion filed before trial.

On or about May 6, 1997 the Court sentenced the Petitioner to life imprisonment on count one and two to run concurrently with each other. The Petitioner and his attorney filed motions prior to sentencing. See docket sheet for details on motion filed and denied prior to sentencing date 5-6-97.

A timely Notice of Appeal was filed by the Petitioner's attorney on or about 5-9-97. The Petitioner's attorney filed a direct appeal on the behalf of the Petitioner; the 11th District Court of appeals affirmed the District Courts judgment on or about April 22, 1998. See docket sheet for details on motion filed on case at bar.

The Petitioner filed a motion under 28 USC § 2255 to vacate the judgment of the District Court, motion filed on or about 3-12-99 on 7-15-99 Court denied the Petitioner's motion to vacate under § 2255. The Petitioner filed Notice of Appeal on 8-2-99, Court denied the appeal as a (COA) Certificate of Appealability) on or about 2-7-00. Motion was filed to District Court and Court of Appeal on 28 USC § 2255 and COA. See docket sheet for details on motion filed for details.

On July 17, 2006 the Petitioner filed a motion to vacate the District Court judgment; motion filed on 7-24-06 by Court denied motion on or about 8-3-06. Several motions were filed on the Petitioner's 60(b) (6) motion. The Petitioner filed under Rule 60(b) (6) to vacate. See docket sheet for details on motion filed and denied.

STATEMENT OF FACTS

The Petitioner contends that the facts on the case at bar is that he did not receive due process of law and equal protection under the US Constitution Amendments 5,6,9,10, and 14 during the proceedings of case, based on all errors, facts, issues, set forth below.

1. Defective Indictment based on the fact the Assistant US Attorney failed to comply with Fed R. Crim P Rule (6) and (6)(F). Nor did the AUSA comply with Fed R. Crim P Rule 7(c) (1) and (2) that governs indictments by a Federal Grand Jury. Due process of law violated.
2. Prosecutorial misconduct, the AUSA committed Prosecutorial misconduct during the proceedings of the case at bar, that violated the Petitioner's due process of law rights under the US Constitution.

3. Probation Officer's PSR/PSI violated the Petitioner's due process of law under Fed R. Crim P Rule 32 (c) (PSR) (PSI) to be sentenced on accurate information.
4. The trial and sentencing Court committed plain errors during the proceedings of the case at bar under Fed R. Crim P Rule (52). That violated the Petitioner due process of law and equal protection under the US Constitution.
5. Constitutionally Ineffective Assistance of Counsel. The Petitioner contends that his attorney for his defense trial and sentencing and on direct appeal was constitutionally ineffective assistance of counsel during the proceedings of the case at bar. That deprived the Petitioner of due process and equal protection under the US Constitution.

**ARGUMENT ONE – DEFECTIVE INDICMENT CITATIONS AND
MEMORANDUM OF LAW FED R CRIM P RULE (6), (6) (F), 7(C) (1) AND (2), 12
(B) (1) AND (2)**

The Petitioner contends that the indictment filed on him on October 16, 1996. In the US District Court was a defective indictment based upon the fact that the AUSA and the USA failed to comply with Fed R. Crim P Rule (6) and (6)(F). And Fed R. Crim P Rule 7(c) (1) and (2), that governs indictments by a Federal Grand Jury. Defective indictment should have been dismissed under Fed R. Crim P Rule 12 (b) (1) and (2) prior to trial date.

The Petitioner appeared in the US District Court of Florida – Pensacola Division on October 16, 1996. When the Court was convened in session the Court did not have a copy of an indictment. The Judge asks the Clerk of Court for the indictment, to which the Clerk of Court could not find a copy of an indictment on the Petitioner.

After the Judge and the Clerk of Court could not find a copy of where an indictment had been filed on the Petitioner, the Petitioner stood up and said to his attorney and the Court, "the Court should let me go since no indictment has been filed on me."

The Judge asks the Clerk of Court if anyone was in the Grand Jury room. The Clerk stated that all the jurors had gone home. The Clerk stated that the forms for the

indictment on the Petitioner were made out, the Judge ordered the Clerk of Court to go to the Grand Jury room and get the indictment. The Clerk left the Courtroom and on her return the Clerk presented the Judge with an indictment.

The Judge viewed the indictment form and stated there was no signature on the indictment. The Judge states that there was not even a place for the signatures on the form. The Clerk stated that she would type the proper places for the signature. There was no typewriter present in the Courtroom, so the Clerk had to leave to type on the indictment forms.

While the Clerk of Court was typing on the indictment forms the Judge asked the AUSA Kenneth Korea if he should sign the indictment. KOREA stated he could not sign the indictment, but the US Attorney P. Michael Patterson could sign it. The Judge ordered for the US Attorney to appear in Court to sign the indictment.

The Clerk of Court returned to the Courtroom and stated to the Court "I got lucky and ran into a grand juror in the elevator." The juror appeared in the Courtroom with the Clerk of Court. The Judge asked the juror if he was a Grand Jury foreperson, he stated he was not. The Judge then ordered the USA to swear the juror in as a Grand Jury foreperson. THE USA stated that a Court stenographer and reporter needed to be present, to record everything. The Judge ordered the stenographer to appear in Court. When the stenographer arrived the Judge swore in Robert W. Nance as a Grand Jury foreperson. After he was sworn in he then signed the indictment in the Courtroom. The USA also signed the indictment.

After all had signed the indictment the Clerk handed it to the Judge. There was no indictment number on the indictment the Judge allowed the Clerk of Court to write the indictment number on the indictment in the Courtroom.

The indictment filed on the Petitioner in the District Court was a fraudulent indictment outside the Grand Jury room as provided for under Fed R. Crim P Rule (6) and (6)(F).

The Fifth Amendment requires that all person charged with a serious Federal crime to a Grand Jury indictment. The Fifth Amendment requires a legally constituted and unbiased Grand Jury. See *Costillo v US* 350 US 359 363 (1956) Grand Jury must have 16 to 23 members Fed R. Crim P Rule (6) and (6) (F). The Court will appoint one juror as the

foreperson and another as the deputy foreperson. The foreperson may administer oaths and will sign the indictment Fed R. Crim P Rule (6) and (6) (F). 12 members must concur on the indictment See *Gaither v US* 413 F3d 1061, 1065 (DC Cir 1969). The foreperson cannot indict by himself nor can the USA. See also *McCoy v US* 266 F 3d 1245 1263 (2001). There were errors in the above criminal proceedings. Conviction must be reversed *McCoy v US* 266 F 3d 1245 1263 (2001), *Ex Parte Bain* 121 US 1 12 13 (1887).

Based upon this fact stated above that Court lack of subject matter jurisdiction to adjudicate. See *US v Cotton* Supra at Lexis 3565 (2000), *Gonzalez v Crosby* 545 US 1255 S Ct 2641 162 L. Ed 2d 480 (2005) *Steel Co v Citizens for Better Environment* 523 US 83 94 140 L Ed 2d 210 118 S Ct 1003 (1998) See also *US v Cotton* Lexis 3565 (2000) *US v Griffin* 303 US 226 82 L. Ed 764 58 S Ct 601 (1938). See all exhibits attached.

The Petitioner also contends that the indictment filed on him on 10-16-96 was defective based on the fact that the Prosecutor failed to comply with Fed R. Crim P Rule 7(c) (1) and (2), as stated above and the fact that the indictment failed to charge a quantity to wit amount of cocaine and cocaine base. Indictment failed to descend into particulars to place the Petitioner on proper notice of what he was charged with, or to protect the Petitioner from twice being tried for the same offenses of § 841 and § 846, or receiving cumulative punishment for same offenses or from double jeopardy. Indictment was duplicity and multiplicity.

The Eleventh Circuit and Supreme Court has ruled that the indictment must charge a quantity to wit amount of drugs be presented to a Judge or jury that defendant is guilty beyond a reasonable doubt of the quantity of drugs he is to be sentenced on. See *US V Rogers* 228 F. 3d 1318 1327-28 (11th Cir 2000). See Fed R. Crim P Rule 7(c) (1) and (2). See Also *Johnson v US* 520 US 461 466 117 S Ct 1544 1549 137 L Ed 2d 718 (1997), also see *Neder v US* 527 US 1 (1999), Quantity of drugs is an element of a drug charge.

Under Fed R. Crim P Rule 7(c) (1) and (2), that governs indictments by a Federal Grand Jury, all elements of each charged offense must be charged in the indictment or accusation defendant is to be punished on See *US v Chilcote* 724 F 2d 1498 (11th Cir 1984), *US v Gayle* 967 F 2d 483 (11th Cir 1992); *US v Sisson* 399 US 267 (1970). In re *Winship* 397 US 358 364 24 L Ed 2d 368 90 S Ct 1068 (1970).

The indictment that was filed on the Petitioner on 10-16-06 failed to descend into particulars to protect the Petitioner from twice being tried for the same offense. Receiving cumulative punishment from same offenses and from double jeopardy. The Fifth Amendment protects a defendant from twice being tried for same offenses from receiving cumulative punishment for same offenses. And from double jeopardy. See *North Carolina v Pearce* 395 US 711 23 L Ed. 2d 656 89 S Ct (1969).

The Supreme Court ruled in *Neder v US* 527 US 1 (1999), indictment must plead to specific statutory language to put defendant on proper notice and each statute must be identified. See *Cruikshank* 92 US 542 558; *US v Simmons* 96 US 360, 362; *US v Carl* 105; *US* 611 612; *US v Hess* 124 US 483 487.

The Petitioner contends that the indictment filed on him on 10-16-96 was duplicitous. Based on the fact the indictment charged the Petitioner two times with § 841. The danger of a duplicitous indictment is three fold (1) a jury may convict a defendant without unanimously agreeing on same offenses; (2) a defendant may be prejudiced in a subsequent double jeopardy defense; and (3) a Court may have difficulty determining the admissibility of evidence. See *US v Schley* 122 F 3d 944 (11th Cir 1997). Based upon the fact the indictment filed on Petitioner on 10-16-96 was duplicitous. The indictment was therefore multiplicities. See *US v Strang* 70 F 3d 588 (11th Cir 1995); *US v Bonavia* 927 F 2d. 565 (11th Cir 1991). All drugs were from single offense, same crime, same criminal crime, same ongoing criminal activity, and same criminal scheme. See *Blockburger v US* 284 US 299 76 L Ed 306 52 S Ct 180 (1932). *Blockburger* has never been disproved.

The indictment, accusation, information goes to the existence of subject matter jurisdiction or the power of the Court to act or to adjudicate the case at bar quoting *Neder v US* 527 US 1 (1999); *Stirone v US* 361 US 212 217 80 S Ct 270 4 L Ed 2d 252 (1960); *Baines* 121 US 12-13; *Winship* at 354 364 379-99 (1970); *McMillan v Pennsylvania* supra. The absence of prejudice to a defendant does not cure what I necessary a substantive jurisdiction defect in an indictment that does not contain all the elements of each charged offenses. See *US v Italiano* supra at 837 F 2d 1480 (11th Cir 1988). Court can not be defaulted quoting *Harris v US* 149 F3d 1304 (11th Cir 1998). Court can correct all jurisdictional claims on its own motion, see also *US v Cotton* supra at Lexis 3565 (2000).

Defendant can challenge subject matter jurisdiction in a later Writ of Habeas Corpus even after judgment and sentence has been imposed.

**ARGUMENT TWO – PROSECUTORIAL MISCONDUCT CITATIONS AND
MEMORANDUM OF LAW DUE PROCESS OF LAW**

The Petitioner contends that the AUSA committed Prosecutorial misconduct during the proceeding of the case at bar that violated the Petitioner due process of law rights and caused prejudice to the Petitioner based on the following facts set forth below.

The AUSA failed to comply with Fed R. Crim P Rule (6) and (6) (F) and Fed R. Crim P Rule 7(c) (1) and (2) that governs indictments by a Federal Grand Jury as stated in argument one defective indictment. Prosecutor signed a fraudulent indictment that was obtained on the petition in the US District Court Northern District Court – Pensacola Division without a Federal Grand Jury on 10-16-96. Prosecutor failed to comply with Fed R. Crim P Rule (6) and (6) (F) and Fed R. Crim P Rule 7(c) (1) and (2) that governs indictments by a Federal Grand Jury.

The AUSA KOREA committed Prosecutorial misconduct during the proceeding of the case at bar by filing a defective indictment on the Petitioner on 10-16-96. That failed to charge all elements of each charged offenses the Petitioner was to be sentence on. NO quantity of drugs was charged I the indictment presented to a Judge or Jury. The Petitioner was guilty beyond a reasonable doubt of the quantity of drugs he was sentenced on. Indictment failed to descend into particulars to protect the Petitioner from being twice being tried for the same offenses or from receiving cumulative punishment for same offense, or from double jeopardy. Indictment was duplicity and multiplicity.

Prosecutor committed Prosecutorial misconduct during the proceeding of the case at bar by seeking a prosecution on the Petitioner under a defective indictment as stated in argument on. Prosecutor committed Prosecutorial misconduct by seeking a life sentence on the Petitioner's Federal sentence under a defective indictment on 5-6-97. All of the above violated the Petitioner's due process of law rights.

The Supreme Court ruled in *Donnelly v Dechristforo* 416 US 637 (1974) the standard of review for Habeas Corpus petition alleging Prosecutorial misconduct is the

narrow one of violation of due process of law and not the broad exercise of supervisory power defendant must show cause and prejudice.

Whether Prosecutorial misconduct took place during the [proceedings of the case at bar turns upon the totality of all the facts and issues and circumstances within the instant Writ of Habeas Corpus with no single factors controlling. See *US v Alvarez Machain* 504 US 655 (1995).

The Prosecutor also failed to file a 21 USC § 851 (a)(1) on the Petitioner and the Court and to the Petitioners attorney their intent to use prior convictions to enhance the Petitioner Federal sentence prior to the Petitioner entering a not guilty plea to the charged offenses prior to trial date the Prosecutor failed to file the § 851.

Title 21 USC § 851 (a) (1) no person who stands convicted of an offense under this part shall not be sentenced to increased punishment by reason of one or more prior convictions unless before trial or before convictions, unless before trial or before entry of a plea of guilt or not guilty, the United States Attorney files an information with the copy and serves a copy of such information on the defendant and his attorney, stating in Writing the previous convictions to be relied on to enhance defendants sentence. Quoting *Harris v US* supra at 149 F 3d. 1304 (11th Cir 1998). See also 21 USC § 851 (a) (1) and (3). Prosecutor did not have subject matter jurisdiction to prosecute the Petitioner under a defective indictment and enhance the Petitioner's Federal sentence to life imprisonment using prior convictions 21 USC § 851 (a) (1) and (3).

**ARGUMENT THREE – PROBATION OFFICE (PSI) (PSR) VIOLATED
PETITIONERS DUE PROCESS OF LAW RIGHTS UNDER FED R CRIM P RULE
32(C)**

The Petitioner contends that the Probation office (PSI/PSR) violated his due process of law rights under Fed R Crim Rule 32(c) (PSI) (PSR) to be sentence on accurate information. See *in re Winship* supra at 397 US 358 397 US 358 364 25 L Ed 2d 368 90 S. Ct. 1068 (1970).

Probation office (PSI) (PSR) set a sentencing range on the Petitioner's sentence to life imprisonment under a defective indictment that did not charge all the elements of each charged offenses. Indictment was obtained on the Petitioner in open Court on 10-16-97

without a Federal Grand Jury. Prosecutor failed to comply with Fed R. Crim P Rule (6) and (6) (F) and Fed R. Crim P Rule 7(c) (1) and (2) that governs indictments by a Federal Grand Jury. Indictment failed to charge a quantity to wit amount of cocaine and cocaine base. Indictment failed to descend into particulars to place the Petitioner on proper notice of what he was charged with, or to protect the Petitioner from twice being tried for the same offenses of § 841 and § 846, or receiving cumulative punishment for same offenses or from double jeopardy. Indictment was duplicity and multiplicity. The Prosecutor also failed to file a 21 USC § 851 (a)(1) on the Petitioner and the Court and to the Petitioner's attorney their intent to use prior convictions to enhance the Petitioner's Federal sentence prior to the Petitioner entering a not guilty plea to the charged offenses prior to trial date the Prosecutor failed to file the § 851. See also argument one and two.

See 18 USC § 3552 (a) (1994) S Rep No 225 USC Ann at 3254, 3340 provision of the sentencing reform that assures that PSI/PSR contain true and accurate information necessary under the sentencing system. Also see Fed R Crim P Rule 32 (c) (1) prior to December 1, 1994. Rule 32 (c) (3) (d). This rule serves the dual purpose of due process of law rights to be sentenced on accurate information and providing a clear record of disposition and resolution of controverted facts in a PSI/PSR. See *US v Butler* 41 F 3d 1435 46 (11th Cir 1995). Errors in a PSI/PSR requires resentencing *US v Butler* supra *Baines* supra at 121 US 1-12-13 7 S Ct 781 30 L Ed 849 (1887).

ARGUMENT FOUR – COURT COMMITTED PLAIN ERRORS UNDER FED R CRIM P RULE 52 CITATIONS AND MEMORANDUM OF LAW

The trial and sentencing Court committed plain errors on the case at bar during the proceeding. The Court allowed a fraudulently manufactured indictment to be filed on the Petitioner on 10-16-96 in open Court outside of the presence of a Federal Grand Jury and without complying with Fed R. Crim P Rule 7(c) (1) and (2) that governs indictments by a Federal Grand Jury as stated in argument one. See also Petitioner's affidavit as an exhibit.

The US District Court committed plain errors during the proceedings of the case at bar by allowing the government to file a fraudulently manufactured indictment on the Petitioner in open Court without a seated Grand Jury and without complying with Fed R. Crim P Rule 7(c) (1) and (2) that governs indictments by a Federal Grand Jury.

The US District Court committed plain errors by allowing the AUSA KOREA to file a defective indictment on the Petitioner on 10-16-96 that failed to charge all the elements of each charged offense. No quantity of cocaine and cocaine base in the indictment presented to a Judge or jury that the Petitioner was in fact guilty beyond a reasonable doubt of the amount of drugs he was sentenced to life imprisonment on 5-6-97.

The District Court committed plain error by allowing the Prosecutor to file a defective indictment on the Petitioner on 10-16-96 that failed to descend into particular to place the Petitioner on proper notice of what he was charged with or to protect the Petitioner from twice being tried for the same offenses of § 841. From receiving cumulative punishment or from double jeopardy as stated within argument one herein the Petitioner instant Writ of Habeas Corpus challenging subject matter jurisdiction to sentence the Petitioner to life imprisonment on a defective indictment that should have been dismissed under Fed R Crim P Rule 12 (b) (1) and (2).

The District Court committed plain error under Rule 52 Fed R Crim P by allowing the AUSA to seek a prosecution on the Petitioner under a fraudulently manufactured indictment that was defective as stated in argument one herein.

The Court committed plain error under Rule 52 by allowing the Prosecutors to seek a life imprisonment on the Petitioner on 5-6-97 under a defective indictment as stated in argument one herein.

The District Court committed plain error under Rule 52 by adapting the Probation office (PSI/PSR) fact findings as true to set a sentencing range on the Petitioner under a defective indictment. See argument three herein. Violation of due process of law rights under Fed R Crim P Rule 32 (c) (PSI) (PSR) to be sentenced on accurate information within the fact findings of a PSI/PSR, quoting Winship 397 US 358 364 24 L Ed 2d 368 90 S Ct 1068 (1970). Resentencing required when Court sentences a defendant of false information in a PSI/PRS, Court committed plain error by sentencing the Petitioner to life imprisonment on 5-6-97 under a defective indictment. Where the information in PSI PSR was not accurate. Rule 32 (C) (PSI) (PRS) due process of law.

The Court committed plain error by enhancing the Petitioner sentence to life imprisonment on the Petitioner on 5-6-97 by using prior conviction stated in a PSI PRS where the Prosecutor had not complied with 21 USC § 851 (a) (1) and (3) serve notice to

Court, defendant and defendant's attorney the prior conviction they would rely on to enhance the Petitioners sentence to life imprisonment on 5-6-97, quoting Harris v US supra at 149 F 3d 1304 (11th Cir 1998). Relying on US v Labonte supra 520 US 751 NI (1997).

When plain errors have taken place such as in case at bar a defendant must show that there was:

1. errors
 2. errors was plain
 3. errors violated defendant constitutional rights as well as substantial and statutory rights to due process of law
 4. The errors affected the fairness, integrity, and reputation of the judicial system.
- See the entire Petitioners claim of violation of due process of law during the proceedings of the case at bar and plain errors.

Plain errors may be brought to the Court attention in a Habeas Corpus even though defendant failed to bring these issues to the Courts attention or on appeal. If defendant can show both cause and prejudice. See Johnson v US supra at 520 US 461 468 117 S Ct 1544, 1549, 137 L Ed 2d 718 (1997).

With no specific quantity of drugs charged in a indictment presented to a Judge or jury that defendant is guilty beyond a reasonable doubt of the amount of drugs he is to be sentenced on the Court must resentence defendant to the lowest term of imprisonment under 21 USC (b)(1)(d). See US v Longoria F 3d 2001 WL 8815 609 (5th Cir July 19, 2001) Apprendi v New Jersey 530 US 466 120 S Ct 2348 147 L Ed 2d 435 (2000) Apprendi should be applied to case at bar "Retrospectively" based on the fact the later ruling did not change the due process of law right 5th and 6th amendments to be sentenced on accurate information under Winship 397 US 358 364 24 L Ed 2d 368 90 S Ct 1068 (1970).

**ARGUMENT FIVE – CONSTITUTIONALLY INEFFECTIVE ASSISTANCE OF
COUNSEL CITATIONS AND MEMORANDUM OF LAW 5TH AND 6TH
AMENDMENTS**

The Petitioner contends that his attorney for his defense on the case at bar was in fact constitutionally ineffective assistance of counsel at all stages of the case at bar and on direct appeal based on the following facts set forth below:

- a. Counsel failed to do a proper pre-trial investigation and prepare for trial on the Petitioner's case at bar. Counsel failed to build a proper defense on the Petitioner's behalf.
- b. Counsel failed to file the proper motions on the Petitioner's behalf on case at bar prior to trial date to suppress all illegal seized evidence and any testimony or statements that was to be used against the Petitioner at a trial or at sentencing.
- c. Counsel failed to build the Petitioner some kind of defense prior to trial date.
- d. Counsel failed to negotiate a favorable plea agreement with the government that would have results in the Petitioner receiving a lesser sentence than life imprisonment 10 years or supervised release on 5-6-97.
- e. Counsel failed to object to the Court allowing a fraudulently manufactured indictment being filed on the Petitioner in open Court US District Court Northern District Court – Pensacola Division without a Federal Grand Jury on 10-16-96. Prosecutor failed to comply with Fed R. Crim P Rule (6) and (6) (F) and Fed R. Crim P Rule 7(c) (1) and (2) that governs indictments by a Federal Grand Jury, as stated in the Petitioner's instant Writ of Habeas Corpus argument one.
- f. Counsel failed to object to the AUSA filing a defective indictment on the Petitioner on 10-16-96.
- g. Counsel failed to object to the Prosecutorial misconduct during the proceedings as stated in argument two herein.
- h. Counsel failed to object to the Prosecutor seeking a life sentence on the Petitioner under a defective indictment.

- i. Counsel failed to object to the Probation officers (PSI/PSR) violating the Petitioners due process of law rights under Fed R Crim p Rule 32 (c) (PSI)(PSR) as stated in argument three herein.
- j. Counsel failed to object to the plain error by the Court fact findings by the Probation office PSI/PSR as true under a defective indictment. See argument three.
- k. Counsel failed to object to the Court sentencing the Petitioner to life imprisonment under a defective indictment that failed to charge all the elements of each offense and failed to descend into particulars, double jeopardy. See argument four plain errors by the Court.
- l. The Petitioner's counsel fro his direct appeal was ineffective assistance of counsel based on the fact that counsel's brief did not contain any of the violation of the Petitioners due process of law right as stated in the Petitioners instant Writ of Habeas Corpus. All of the above amounts to violations of the Petitioners due process of law rights under the 5th and 6th amendments to the US Constitution and is in fact constitutionally ineffective assistance of counsel as provided for under the 6th amendment.

All of the Petitioners claims of ineffective assistance of counsel stated above rises above the standard set forth under Strickland v Washington 466 US 668 694 104 S Ct 2052 80 L Ed 674 (1984). Also see Williams V Taylor 529 US 362 391 120 S Ct 1495 146 L Ed 2 d 389 (2000). The Supreme Court has ruled that Strickland V Washing supra does apply to plea bargaining quoting Hill v Lockhart 474 US 52 58 106 S Ct 366 88 L Ed 2d 203 (1985). See Rule 11(e) Fed R Crim P Plea Bargaining.

The Petitioner's counsel failed to keep him informed of all the legal development issues of his case at bar prior to trial date. See Slicker v Wainwright 809 F 2d 768 (11th Cir 1987) Yordon v Dugger 90i F 2d (11th Cir 1990).

If in fact the Petitioners attorney had kept him informed of all legal developing issues and had negotiated a favorable plea agreement with the government prior to trail date the Petitioner would have received a lesser sentence of life imprisonment 10 years of supervised release on 5-6-97. See Harrision v Jones 880 F Ed 2d1229 (11th Cir 1989).

Effective assistance of counsel is needed at all stages of a criminal proceeding to protect defendant's due process of law rights and to make sure defendant gets a fair trial 5th, 6th and 14th amendments – US Constitution. See *Powell v Alabama* 287 US 45 77 L Ed 152 53 S Ct 55 84 ALR 527 (1932).

The AUSA may argue that the Petitioner was not prejudiced by counsel's errors and unprofessional advice as stated within the Petitioner's instant Writ of Habeas Corpus. However *Glover v US* 531 US 198 203 121 S Ct 698 148 L Ed 2d 604 (2001) will put that argument to rest.

Ineffective assistance of counsel should to Federal collateral proceeding as they do on direct appeal quoting *US v Frady* 456 US 152 162 169 71 L Ed 2d 816 102 S Ct 1584 (1982) *Engle v Isaac* 456 US 107 133 134 71 L Ed 2d 783 102 S Ct 1558 (1982).

The *Strickland v Washington* supra objective reasonable prong requires counsel to conduct appropriate factual and legal inquires and allow adequate time for trial preparation and development of a defense strategies. See US Const Amend 6 quoting *Huffington v Nut* 140 F 2d 572; *Moran v Burbine* 106 S Ct 1135 89 L Ed 2d 410 (1986). In some cases counsel's performance can be ineffective in a single error. See *Strickland v Washington* 466 US 668 694 104 S Ct 2052 80 L Ed 674 (1984). The failure of the Petitioner's attorney to investigate each of the charges filed on him on 10-16-96 was in fact ineffective assistance of counsel. See *Cuyler v Sullivan* 466 US 335 344 (1980) *Sheley v Singletary* 955; *Mitchell v Kemp* 762 F 2d 886 888-89 (1985).

The entire Petitioner claims that is stated within the Petitioner Writ of Habeas Corpus of violation of his due process of law rights under the US Constitution could have been addressed by the 11th Circuit Court of Appeals if not for appeals attorney errors and unprofessional advice to the Petitioner. See *US v King* 73 F 3d 1564 (11th Cir 1996).

The Petitioner's attorney for his defense and on direct appeal on the case at bar all failed to comply with the standards set forth under the Florida Bar Association and the American Bar Association for criminal justice 4-1.1 to 4-8-6 (2d Ed 1980) quoting *Engle v Isaac* supra at 456 US 107 133 134 71 L Ed 2d 783 102 S Ct 1558 (1982) and if not for counsel errors and unprofessional advise to the Petitioner that violated his due process of law rights during the proceedings of the case at bar the outcome of the Petitioners case would not have received a life imprisonment and 10 years of supervised release on 5-6-97.

CONSTITUTIONAL NOTICE

The Petitioner contends that based on argument one through five as stated above the Prosecutor did not have subject matter jurisdiction to file a defective indictment on the Petitioner on 10-16-96 nor did the Prosecutor to wit AUSA have subject matter jurisdiction to prosecute the Petitioner on a defective indictment or to seek a life sentence on the Petitioner under a defective indictment and where Prosecutors failed to comply with 21 USC § 851 (a)(1) and (3) on prior convictions on 5-6-97 sentencing.

The Probation office (PSI/PSR) lack subject matter jurisdiction to apply at sentencing range to the Petitioners sentence under a defective indictment that was obtained to wit filed in open Court without a Federal Grand Jury in violation of Fed R. Crim P Rule (6) and (6) (F) and Fed R. Crim P Rule 7(c) (1) and (2) that governs indictments by a Federal Grand Jury. Probation office violated the Petitioner's due process of law rights. See argument one and three herein. See Rule 32 (c) to be sentence on accurate information.

The trial and sentencing Court lack subject matter jurisdiction to prosecute pass judgment and impose a life sentence on the Petitioner on 5-6-97 under a defective indictment as stated in argument one and three. Defective indictment and PSI/PSR.

The term jurisdiction means the Courts statutory or constitutional power to adjudicate the case this concept of subject matter jurisdiction because it involves a Court powers to hear a case can never be forfeited or waived by no party involved in a criminal proceeding and defects in subject matter jurisdiction requires corrections regardless of whether the errors was raised in the lower Court of on appeal. And jurisdiction can be challenged in a Habeas Corpus even after judgment and sentence have been imposed. See US v Cotton supra at Lexis 3656 (2000). Jurisdiction claims shall not be defaulted Harris supra at 149 F 3d 1308, a Court can correct subject matter jurisdiction on its own motion.

Courts that lack jurisdiction are without the power to issue an in personam judgment quoting Pennoyer v Neff 95 US 714 24 L Ed. 565 Oksanen v US 362 F 2d 74 (1966 CA 8 AD) Harris v US Supra.

There are four kinds of jurisdiction:

1. In personam of the party
2. In rem of the property

3. Subject matter of the case
4. Venue – Geographical/Territorial areas of designated authority.

Jurisdiction may be challenged on collateral attack where there is absence of jurisdiction all administrative and judicial proceedings are nullity and confers no rights offers no protections offers no justification. See *Thompson v Tolmine* 27 US 157 2 PET 157 7 L Ed 381, *Griffin v Frazier* 12 US 9-8 CR-9 Main v *Thiboutot* 100 S Ct 727 405 A 2d 230 444 US 1042 62 L Ed 728.

The Petitioner has stated how the Prosecutor, the Probation officer and the Court all denied him due process of law during the proceeding of the case at bar that has cause prejudice to the Petitioner by the above imposing a life sentence on him, under a defective indictment, quoting *US v Frady* 456 US 152 162 169 71 L Ed 2d 816 102 S Ct 1584 (1982). The Petitioner contends that he is not filing 28 USC § 2255 Motion the Petitioner is not filing a second and successive 2255 motion; 28 USC § 2253 (c) (2) rule 22(b) The Petitioner is however filing a constitutional motion under the Federal all Writs act 28 USC § 1651, article 1 § 9 CL 2, US Constitution requesting the Court to se aside the judgment it imposed on the Petitioner on 5-6-97 of life imprisonment under Rule 60(b) of Fed R. Crim P Rule 52. Dismiss the defective indictment under Fed R Crim P Rule 12(1) and (2), make a new PSI/PSR up under Fed R Crim P Rule 32(c) and resentence the Petitioner to the lowest term of imprisonment under 21 USC § 841 (b) (1) (d) under Rule 32 Sentencing the Petitioner is challenging subject matter jurisdiction of the Court to sentence him to life imprisonment on a defective indictment.

The Petitioner contends that his constitutional Writ of Habeas Corpus does not trigger the Anti-Terrorism and Death Penalty Act of (1969) (1996). If in fact the Court would construe the Petitioner Writ of Habeas Corpus into a 28 USC § 2255 motion or into a second and successive 28 USC 2255 motion and dismiss the Petitioner's Writ of Habeas Corpus challenging subject matter jurisdiction would deprive the Petitioner of due process of law, show favor to the government and cause confusion on what type of motions to wit Writ of Habeas Corpus could be filed in the US District Court, relying on *Castro V* US 152 L Ed 2d 778 (2003); *Stewart v Martinez Villarreal* 523 US 637 641 642 140 L Ed 2d 849 118 s Ct 1618 (1998); *Hughes v Rowe* 449 US 5 10 66 L Ed 2d 163 101 S Ct 173 (1980); *Andrews v* US 373 US 334 10 L Ed 2d 383 83 S Ct 1236 (1963).


CONCLUSION

In conclusion the Petitioner would move this Honorable Court to enter an order to:

1. Dismiss the case at bar for the lack of subject matter jurisdiction based upon a defective indictment as stated herein. And order Warden A F Beeler at Federal Medical Center PO Box 1600 Butner, NC 27509-4600 to release the Petitioner at once based on the fact he is being held in a Federal Prison in violation of his constitutional statutory and substantial rights at this time.
2. As an alternative – For the Court to enter an order to resentence the Petitioner to the lowest term of imprisonment under 21 USC § 841 (b) (1) (d) based on a defective indictment as stated in argument on through five herein.
3. As an alternative – For the Court to hold an evidentiary hearing on the Petitioner claim within his Writ of Habeas Corpus challenging subject matter jurisdiction.
4. For this Court to enter an order for the government to wit AUSA to show cause why this Court should not grant the Petitioner instant Writ of Habeas Corpus. Challenging subject matter jurisdiction for the Prosecutors, the Probation office (PSI/PSR) and Court all taking part in sentencing the Petitioner to life imprisonment.
5. For this Court to enter an order to grant the Petitioner any other relief as may be appropriate in the case at bar.

Dated: January 2, 2008

Respectfully submitted,


LEONARD THOMAS WALKER, Pro Se
Federal Medical Center
P.O. Box 1600
Butner, N.C. 27509

CERTIFICATE OF SERVICE

The Petitioner Leonard Thomas Walker does hereby certify that he did in fact send true and correct copies of the foregoing to each address below, by US Mail with the correct amount of postage on each copy. On the date below from Federal Medical Center PO Box 1600, Butner NC 27509-4600.

One Copy to:
Clerk of Courts
US District Court
Northern District of Florida – Pensacola Division
1 North Palafox Street
Pensacola Florida 32502

One Copy to:
US Attorney's Office
Northern District of Florida – Pensacola Division
21 East Garden Street, Ste 400
Pensacola Florida 32501

One Copy to:
Attorney General of the United States of America
Department of Justice
10th Street and Constitution Avenue, NW
Washington DC 20530

Date: January 2, 2008

Respectfully Submitted,



Leonard Thomas Walker, Pro Se
Reg Number:
Federal Medical Center
PO Box 1600
Butner, NC 27509-4600

EXHIBITS 13

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

LEONARD THOMAS WALKER)	CRIMINAL CASE No.3-96-CR-76-RV
Petitioner/Defendant,)	
)	
Versus)	
)	
THE UNITED STATES OF AMERICA,)	
Respondent)	
_____)	

**WRIT OF HABEAS CORPUS PETITION THE COURT FOR RECUSAL OF A
FEDERAL JUDGE 29 USC § 455(A)**

NOW COMES the Petitioner and Defendant herein, LEONARD THOMAS WALKER, appearing in and of his own behalf, as a pro se litigant, and respectfully moves this Honorable Court to grant WALKER instant motion PETITION THE COURT FOR RECUSAL of the United States District Court Northern District of Florida – Pensacola Division Judge Roger Vinson, Chief Judge Pensacola Florida, Under 29 USC § 455 (a) and do hereby set forth all fact below.

JUDICIAL NOTICE

This Honorable Court has jurisdiction to rule on the case at bar under 29 USC § 455(a) Recusal of Federal United States District Judges. Conjoined with 28 USC § 1331 (a), 28 USC § 1651(a) The Federal All Writs Act.

STATEMENT OF SHOWING OF BIAS AND PREJUDICE

The petitioner appeared in the US District Court of Florida – Pensacola Division on October 16, 1996, present in the Courtroom was presiding Judge Roger Vinson; US Attorney P. Michael Patterson; Assistant US Attorney Kenneth S. Korea; Clerk of US District Court; The Court Stenographer; Robert W. Nance; Probation Officer; Court Reporter, all of which can be subpoenaed at a evidentiary hearing if one is held on the issue herein the instant Recusal Motion. Judge Vinson allowed a fraudulently manufactured indictment to be filed on the petitioner without complying with Fed R. Crim P Rule (6) and

(6) (F). Also Fed R. Crim P Rule 7(c) (1) and (2) that governs indictments by a Federal Grand Jury. There was no sitting Federal Grand Jury. There was no Federal Grand Jury seated in the open Courtroom when the indictment was being formed, signed and filed in open Court, which made the indictment a fraudulently manufactured indictment. Which has deprived the petitioner of due process of law and equal protection under the 5th, 6th, 9th 10th, and 14th Amendments – US Constitution and have shown both bias and prejudice towards the petitioner in the proceeding of the case at bar.

STATEMENT OF FACTS SHOWING OF BIAS AND PREJUDICE

The petitioner appeared in the US District Court of Florida – Pensacola Division on October 16, 1996. When the Court was convened in session the Court did not have a copy of an indictment. The Judge asks the Clerk of Court for the indictment, to which the Clerk of Court could not find a copy of an indictment on the petitioner.

After the Judge and the Clerk of Court could not find a copy of where an indictment had been filed on the petitioner, the petitioner stood up and said to his attorney and the Court, “the Court should let me go since no indictment has been filed on me.”

The Judge asks the Clerk of Court if anyone was in the grand jury room. The Clerk stated that all the jurors had gone home. The Clerk stated that the forms for the indictment on the petitioner were made out, the Judge ordered the Clerk of Court to go to the grand jury room and get the indictment. The Clerk left the Courtroom and on her return the Clerk presented the Judge with an indictment.

The Judge viewed the indictment form and stated there was no signature on the indictment. The Judge states that there was not even a place for the signatures on the form. The Clerk stated that she would type the proper places for the signature. There was no typewriter present in the Courtroom, so the Clerk had to leave to type on the indictment forms.

While the Clerk of Court was typing on the indictment forms the Judge asked the AUSA Kenneth Korea if he should sign the indictment. KOREA stated he could not sign the indictment, but the US Attorney P. Michael Patterson could sign it. The Judge ordered for the US Attorney to appear in Court to sign the indictment.

The Clerk of Court returned to the Courtroom and stated to the Court "I got lucky and ran into a grand juror in the elevator." The juror appeared in the Courtroom with the Clerk of Court. The Judge asked the juror if he was a Grand Jury foreperson, he stated he was not. The Judge then ordered the USA to swear the juror in as a Grand Jury foreperson. The USA stated that a Court stenographer and reporter needed to be present, to record everything. The Judge ordered the stenographer to appear in Court. When the stenographer arrived the Judge swore in Robert W. Nance as a Grand Jury foreperson. After he was sworn in he then signed the indictment in the Courtroom. The USA also signed the indictment.

After all had signed the indictment the Clerk handed it to the Judge. The Judge stated there was no indictment number on the indictment the Judge allowed the Clerk of Court to write the indictment number on the indictment in the Courtroom.

The indictment filed on the petitioner in the District Court was a fraudulent indictment outside the Grand Jury room as provided for under Fed R. Crim P Rule (6) and (6)(F). Also Fed R. Crim P Rule 7(c) (1) and (2) that governs indictments by a Federal Grand Jury. There was no sitting Federal Grand Jury.

ARGUMENT, CITATION AND MEMORANDUM OF LAW

The petitioner contend that Judge Vinson actions on October 16, 1996 violated his due process of law and equal protection under the 5th, 6th, 9th, 10th, and 14th amendments – US Constitution and have shown both bias and prejudice towards the petitioner in the proceeding of the case at bar. Based on all facts set forth above. The petitioner moves this Honorable Court to recuse Judge Roger Vinson off any motion that the petitioner has filed in this Court or may file in the future.

In 1974 a number of revisions were made to 29 USC § 455 Recusal of a Federal Judge which fall under the two subsections (a) and (b). Basically 29 USC § (a) reads any justice, Judge, or magistrate of the United States shall disqualify himself in any proceedings in which his impartiality might reasonably be questioned, subsection (b) which reads he shall also disqualify himself in the following circumstances listed in detail:

(b) N/A

(1) Where he has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding. See all of the petitioner's contentions and exhibits herein.

(2) N/A

(3) N/A

(4) N/A

(5) N/A

(i) N/A

(ii) N/A

(iii) Is known by the Judge to have an interest that could be substantially affected by the outcome of the proceedings;

(iv) Is to the Judge knowledge likely to be a material witness in the proceedings.

(c) N/A

(d) For purposes of this section the following words or phases shall have the meaning indicated.

(1) for purposes includes pretrial, trial, appellate review or other stages of litigation.

(2) N/A

(3) N/A

(4) N/A

29 USC § 455 provides that a Judge shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned quoting Lileberg V Health Services 486 US 108 S Ct 2194 100 L Ed 2d 855 (1988). Section § 455(a) is to promote confidence in the judiciary by avoiding even the appearance of impropriety whenever possible.

The Supreme Court has applied a three factor test to determine whether a Judicial action taken in violation of § 455(a) should be remanded by vacature; this test requires the Court to consider:

1. The risk of injustice to the parties in the particular case.
2. The risk that the denial of relief will produce injustice in other cases.

3. The risk of undermining the public's confidence in the judicial process.

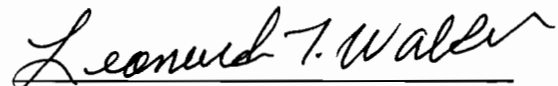
CONCLUSION

In conclusion the petitioner would move this Honorable Court to enter an order to:

1. Grant the petitioner instant Motion for Recusal of Judge Roger Vinson off ruling on off any motion that the petitioner has filed in this Court at present or may file in the future.
2. For this Court to show cause why Judge Roger Vinson should not recusal off ruling on off any motion that the petitioner has filed in this Court at present or may file in the future.
3. Grant the petitioner any other relief as may be appropriate in the case at bar, so there will not be a complete miscarriage of justice in the proceeding of the case at bar.

Dated: January 2, 2008

Respectfully submitted,



LEONARD THOMAS WALKER, Pro Se
Federal Medical Center
P.O. Box 1600
Butner, N.C. 27509

CERTIFICATE OF SERVICE

The petitioner Leonard Thomas Walker does hereby certify that he did in fact send true and correct copies of the foregoing to each address below, by US Mail with the correct amount of postage on each copy. On the date below from Federal Medical Center PO Box 1600, Butner NC 27509-4600.

One Copy to:
Clerk of Courts
US District Court
Northern District of Florida – Pensacola Division
1 North Palafox Street
Pensacola Florida 32502

One Copy to:
Clerk of Courts
US Court of Appeals
Joseph W. Hatchett, Chief Circuit Judge
PO Box 10429
Tallahassee Florida 32302-2429

One Copy to:
US Attorney's Office
Northern District of Florida – Pensacola Division
21 East Garden Street, Ste 400
Pensacola Florida 32501

Date: January 2, 2008

Respectfully Submitted,



Leonard Thomas Walker, Pro Se
Reg Number:
Federal Medical Center
PO Box 1600
Butner, NC 27509-4600

EXHIBITS 14

MEMORANDUM IN SUPPORT

The petitioner Leonard Thomas Walker contends that all following people have took part in perpetrating a FRAUD on him during the proceeding of the case at bar, US v WALKER 3-96-CR-76-RV. As follows:

1. Judge Lacy Collier 10-16-96
2. US Attorney P. Michael Patterson 10-16-96
3. Assistant US Attorney Kenneth s. Korea 10-16-96
4. Clerk of US District Court 10-16-96
5. The Court Stenographer 10-16-96
6. Robert W. Nance 10-16-96
7. Probation Officer (PSI)(PSR) 10-16-96

All from the Northern Distric of Florida-Pensacola Division.

The petitioner Leonard Thomas Walker appeared in United States District Court, Northern of Florida-Pensacola Division on October 16, 1996 with Attorney Ted A. Stokes, also present were the following: Judge Lacy Collier Northern District of Florida Pensacola Division; the Assistant US Attorney Kenneth S. Korea; The Clerk of Court; Robert W. Nance; US Attorney P. Michael Patterson; a Court stenographer and a Court report. All of which can be subpoenaed at an evidentiary hearing on Walker's clbim of Fraudulently Manufactured Indictment that was defective on 10-16-96. Based upon all of the above failed to comply with Fed. R. Crim. P. Rule(6)(g)(f)and &(c)(1)that governs indictment by a Federal Grand Jury.

On October 16, 1996-I, Leonard Thomas Walker Appeared in the United States District Court Northern District of Florida-Pensacola Division with my attorney Ted A Stokes. When the Court was convenes into session, the Judge could not find an indictment filed on Walker

The Judge asked the Clerk of Courts for the indictment, the

Clerk of Courts could not find a filed indictment on Leonard Thomas Walker. When Walker heard that the Judge, the Clerk of Courts did not have properly filed indictment on him, he stated to his attorney and the Court that the Judge should let him go out of the courtroom and go free.

The Judge ask the Clerk of Courts if there was any one in the Gand Jury room the Clerk stated they had all gone out of the Gand Jury room. The Clerk stated to the Judge that the forms from the indictment were made out.

The Judge ordered the Clerk of Courts to go the Gand Jury room and get the indicment forms. The Judge viewed the indictment form and stated that there were no signatures on the indictment and there was not a place on the indictment for a signature.

The Judge handed the indictment back to the Clerk of Court. The Clerk stated she would type the proper place for the signature onto the indictment form. The Clerk had to leave the Courtroom once again, to type the place for signature on the indictment.

The Judge ask the Assistant US Attorney(AUSA)if he could sign the indictment, the AUSA Kenneth S. Korea told the Judge he could not sign the indictment but the US Attorney(USA)P. Michael Patterson could sign the indictment. The Judge ordered the US Attorney to appear in the Courtroom to sign the indictment. By this time, the Clerk of Court had come back into the Courtroom. The Clerk of Courts stated I got lucky and ran into one of the Grand Juror in the elevator.

The Juror appeared in the Courtroom with the Clerk. His name was **Robert W. Nance**. The Judge asks Mr. Nance if he was a Grand Jury Foreperson. Mr. Nance told the Judge he was not a Grand Jury foreperson.

The Judge ordered the US Attorney to swear Mr. Nance in as a Grand Jury foreperson. After Mr. Nance was sworn in he then signed the indictment. Then the US Attorney signed to indictment. Then the AUSA signed the indictment in the Courtroom without complying with Fed. R. Crim. P. Rule(6)(g)(f)and(c)(1)that governs indictment by a Federal Grand Jury.

The Clerk of Court then gave the fraudulently obtained indictment to Judge Lacy Collier. The Judge stated to the Clerk of Court that there was no indictment number on the indictment. The Clerk stated she would write the number on the indictment.

The Clerk then wrote the indictment number 3-96-CR-76-RV on the indictment. (See all exhibits attached.) This indictment obtained on Leonard Thoms Walker was filed in open Court without a Federal Grand Jury being seated outside the Grand Jury room.

The endorsing on the indictment was fraudulent, deceptive, misleading, falsified and formed outside the Grand Jury room, without 12 Grand Jury members being seated, which has deprived Leonard Thomas Walker of due process of law, and equal protection under the 5th,6th, 9th,10th,and14th Amendments to the US Constitution, and has prejudiced Leonard Thomas Walker during the proceeding of the case at bar[US v Walker Case Number#3-96-CR-76-RV].

Based upon the fact that indictment was fraudlently manufactured on Walker on 10/16/96, Leonard Thomas Walker states that a fraud has been perpetrated against him in filing the indictment on him on 10/16/96 and the fact that the indictment was defective that did not charge all the elements of each charged offense, no quantity of cocaine and cocaine base was charged in the indictment presented to

a Judge or Jury Walker was guilty beyond a reasonable doubt of the quantity of drugs he was sentenced to Life imprisonment on 5/6/97. See Fed. R. Crim. P. Rule(7).

The indictment filed on Walker on 10/16/96 failed to descent into particulars to place Walker on proper notice of what he was charged with, to protect Walker from twice being tried for the same offense, or from receiving cumulative punishment fro a single offense.

Nor did the indictment protect Walker from doubl jeopardy. Based upon all of the above Leonard Thomas Walker contends that he did not receive due process of law during the time the indictment forms were being made up in the Grand Jury room to wit

1. Was the Federal Grand Jury in the Northern District of Florida-

Pensacola Division conducted pursuant to US v R. Enterprise(III), S Ct 722, 726(1991),

When the Gand Jury was ruling on the indictment forms on case 3-96-CR-76-RV where there no signature of Gand Jury foreperson on the indictment and indictment was signed in Courtroom on 10/16/96 outside of Gand Jury room without 12 Gand Jury members being seated and in violation of Fed. R. Crim. P. Rule (6)(g)(f)and&(c)(1)that governs indictment by a Federal Gand Jury?

2. Did the Gand Jury act as a shield between the government and the defendant Leonard Thomas Walker to protect his 5th amendment right to due process of law, pursuant to Wood v. Georgia 82 S Ct, 1364, 1373(1962)?

3. Was the Gand Jury acting independently of the government or Judge pursuant to Stirone v. US 80 S Ct 270(1960)?

4. Did the 5th Amendment Grand Jury clause act as a safeguard designed to protect Walker from oppressive government practices pursuant to US FX Rel Toth v. Quarles 76 S Ct 1 (1955)?

5. Was the Federal Grand Jury degraded into a rubber stamp and the testing of the government evidence into an empty ritual pursuant to U.S. v. Mudarris, 695 F.2d 1181, 1182 (9th Cir. 1983)?
6. Was the prosecutorial misconduct and outrageous conduct in front of the Grand Jury pursuant to U.S. v. Samango, 607 F.2d 877 (10th Cir. 1979)?
7. Did the AUSA to wit the government expressed their opinion on the weight and sufficiency of evidence or testimony pursuant to U.S. v. Wells, 163 F. 313 (D. Idaho 1909)?
8. Did the Grand Jury have freedom of deliberation in re subpoena pursuant to 920 F.2d 235, 241 in 8 (4th Cir. 1990)?
9. Did the AUSA to wit the government usurp the functions of the Federal Grand Jury pursuant to U.S. v. Isgro, 751 F. Supp. 846, 850 (9th Cir. 1990)?
10. Did the AUSA Kenneth S. Korea and U.S. Attorney P. Michael Patterson violated their oath of office on 10/16/96 when both signed the indictment in open Court without complying with Fed. R. Crim. P. Rule (6)(g)(f) and (c)(1) form of indictment by a Federal Grand Jury. See U.S. Constitution Article VI § 2 and and 3. Also, see Ethical Standards for Attorneys for the government under the Department of Justice (DOJ) section 530(b), 311(a) Chapter 31, title 28 U.S.C. that governs errors, perjury, and civil rights and prejudices. The petitioner Leonard T. Walker contends that Judge Lacy Collier, the US Attorney P. Michael Patterson, the AUSA Kenneth S. Korea, the Clerk of Courts, the Court stenographer and Robert W. Nance all from the Northern District of Florida - Pensacola, Division

took part in perpetrating a fraud against Leonard T. Walker in the proceedings of the case at bar, US v Walker Case Number 3-96-CR-76-RV. The The US Probation Office (PSI)(PSR)Northern District of Florida - Pensacola Division joined the perpetration that fraud against Walker by setting a sentencing range under a fraudulently manufactured indictment on 10/16/96 in open Court without a seated grand jury, to wit 12 seated Grand Jury members.

All of the above took part in violating all of the following:

1. Title 18 USC § 552 ET Seq False and Misleading Records and other.
2. Title 18 USC § 35 Conveying False and Misleading Information and other.
3. Title 18 USC § 1001, Et Seq Fraud and False Statements and other.
4. Title 18 USC § 1018 Official Government Writing and Document and others.
5. Title 18 USC § 1501 Et Esq. Obstruction of Justice and other.
6. Title 18 USC § 1621 Et Seq. Perjury, Generally and Subornation of perjury.
7. Title 18 USC § 1901 Et Seq. Public Officials and Employees.
8. Title 18 USC § 2071 Et Seq. Records and False Reports, et. al.
9. Title 26 USC § 7206 Fraud and False Statements
10. Title 28 USC § 1745 Willfully Using False material as true.
11. Title 18 USC § 3 After the facts.
12. Title 18 USC Willfully causing to be done.
13. US Constitution Article VI Section § Clause 1, same

privileges.

14. US Constitution Article VI Section § 2 and § 3.

The Attorney General of the United States through the Department of Justice (DOJ) is responsible for all Assistant US Attorneys actions or none action in the United States District Court and the forming Federal indictment Fed. R. Crim. P. Rule (6)(g)(f), 7(c)(1). And during the prosecution of the defendant. And to make sure Assistant US Attorney comply with the Code of Ethical Standards of the United States Department of Justice and the US Constitution Article VI § 2 and § 3.

See Ethical Standards for Attorney for the Government § 530(b), which staters that the US Attorney's shall abide by the US Consti-tution and by all civil rights there under by oath.

See also Ethical Standards for Federal Prosecutors, Section 311 (2) Chapter 31 of Title 28 USC, deling with Errors, perjury and civil rights. As well as bias and prejudice conduct by all Federal Prose-cutors to with (US) Attorney et. al.).

See also Complaints to the Attorney General under 530 (b) sect-ion 322(a) states that a written statement shall be submitted to the Attorney General of the United States. If the person believed that Federal employees to wit Assistant US Attorneys engaged in conduct described in Section 821(a) constitutional and civil rights, bias, prejudices, perjury. See US Constitution Article VI, Clause § 2 and § 3, Article III, Section 1.

Judge Lacy Collier also violated his oath of office on 10/16/96 by taking part in perpetrating a fraud on Leonard Thomas Walker by allowing a fraudulently manufactured indictment to be formed in a open courtroom, without 12 Grand Jury members being seated, then

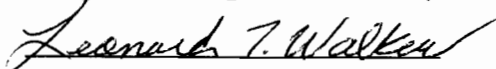
allowed the indictment to be signed in open court, where the court failed to comply with Fed. R. crim. P. rule (6) and (6)(f) and 7(1) that governs Federal indictments. Violations of 5th and 6th Amendments.

See oath of all Federal Judges Public law 96-303, Section 3(3) 1194 stat 855, 556 (July 3, 1980) 28 USC § 453. The oath of all Federal Judges is to uphold the US constitution and make reassuring readings. All Federal Judges swear by God that they will administer the without respect to persons and do equal rights to the poor and the rich and faithfully and impartially discharge and perform all duties incumbent upon them, Under the laws and constitution of the United State, So help them God.

RELIEF SOUGHT

As a result of the preceeding pattern of acts against me, I have suffered and been damaged/prejudiced financially, socially, and economically as well as wrongfully imprisoned, unjustly convicted, and restrained in person and property of my liberty as guaranteed by the United states constitution of America.

Respectfully Submitted,



Leonard T. Walker Pro-SE,
#04039-017
P.O. Box 1500
Butner, N.C. 27509

EXHIBITS 15

allegations made by petitioner, if proven true, would necessarily entitle petitioner to relief.

ANALYSIS

It is axiomatic that all persons charged with a serious federal crime have a right pursuant to the Fifth Amendment to a grand jury indictment. Accordingly, the Fifth Amendment requires a legally constituted and unbiased grand jury Costillo v. U.S., 350 U.S. 359, 363(1956). The grand jury must have 16 to 23 members (Federal Rules of Criminal Procedure Rule 6). The court will appoint one juror as the foreperson and another as the deputy foreperson. ~~The foreperson may administer oaths and will sign~~ all indictments. Fed. R. Crim. P. 6(f). However, an indictment may issue only if at least 12 members of the jury concur on the indictment. See, Gaither v. U.S., 413 F.2d 1061, 1065(D.C. Cir. 1969). The foreperson cannot indict by himself nor can the U.S. attorney.

When an indictment is not brought by the grand jury there is error in the subsequent criminal proceedings. McCoy v U.S., 266 F.3d 1245, 1263 (2001). "When challenged, a conviction or sentence based on charges not initially brought by the grand jury must be per se reversed because, unlike most ordinary trial errors, 'an indictment found by a grand jury is indispensable to the power of the court to try (the defendant) for the crime with which he was charged.'" McCoy, 266 F3d at 1263 quoting to

Ex Parte Bain, 121 U.S. 1, 12-13 (1887). This necessarily establishes that a "court cannot permit a defendant to be tried on charges that are not made in the indictment against him." Ibid, quoting Stirone v. U.S., 361 U.S. 212, 217 4L.Ed.2d 252, 80 S.Ct. 270 (1960); see also, U.S. v. Macklin, 523 F.2d 193, 196 (2d Cir. 1975) (The absence of a legally constituted indictment deprives court of its power to act. Moreover, the absence of a legally constituted indictment is a jurisdictional defect. Id. Cf. Smith v. U.S., 360 U.S. 1, 10 3 L.Ed. 2d 1041, 79 S.Ct. 991 (1959). The Supreme Court prior to Smith, supra, held "without indictment or presentment by a grand jury, the district court exceeded its jurisdiction, and the defendant is therefore intitled to be discharged." Ex Parte Wilson, 114 U.S. 417, 429 29 L.Ed. 89 (1885).

In the case at bar petitioner swears in affidavit that his indictment was not returned by the required 12 grand jurors as mandated by Fed R. Crim. P. 6(f). Instead, petitioner swears, the court in an act of expediency, swore in the lone remaining grand juror in the federal courthouse as foreperson. Prior to the court swearing in the foreperson the court had the United States Attorney sign the indictment. Petitioner further swears that all of this took place without the indictment going before the complete grand jury and without the concurrence of 12 jurors.

It is the position of petitioner that the court and the U.S. Attorney violated his Fifth Amendment right to a legally constituted

indictment, there, the indictment petitioner was charged with and ultimately tried on was a nullity which necessarily deprived the court of jurisdiction to hear the case. See Macklin 523 F.2d. at 196 (concluding that the indictment as a nullity necessarily implies that the court was without jurisdiction to hear the case).

Petitioner takes the position that this obvious jurisdictional defect deprives the court of jurisdiction in the case at bar. Moreover, subject-matter jurisdiction is an issue that may be raised at any time. See, U.S. v. Adesida 129 F.3d 846,850 (6th Cir. 1997); Johnston v. U.S., 85 F.3d 217, 218 n.2 (5th Cir. 1996); U.S. v. Hardy, 930 F.2d 1257, 1261 (7th Cir. 1994).

Petitioner argues that his case must be reopened to ascertain the truth of this indictment issue.

PETITIONER CLAIMS RULE 60(b)(6) IS THE
PROPER FORUM FOR HIS JURISDICTIONAL CLAIM
AND TO VACATE THE JUDGMENT IN THE INSTANT CASE

ANALYSIS

It is well settled law that Rule 60(b)(6) of the Federal Rules of Civil Procedure permits reopening a case when the Movant shows "any ... reason justifying relief from the operation of the judgment" other than the more specific circumstances set out in Rules 60(b)(1)-(5). See, Gonzalez v. Crosby, 545 U.S. ___, 125 S.Ct. 2641, 162 L.Ed. 2d 480(2005); see also Liljeberg v. Health Services Acquisition Corp. 486 U.S. 847, 863 n. 11(1988).

Rule 60(b)(6), also

Preserves parties' opportunity to obtain vacatur of judgment that is void for lack of subject-matter jurisdiction--a consideration just as valid in habeas cases as in any other, since absence of jurisdiction altogether deprives a federal court of the power to adjudicate the right of the parties.

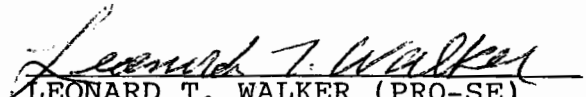
Gonzalez, supra. Steel Co. v. Citizens for Better Environment, 523 U.S. 83, 94, 140 L.Ed.2d 210, 118 S.Ct. 1003 (1998).

However, the Supreme Court has held that a movant seeking relief under Rule 60 (b)(6), must show "extraordinary circumstances" justifying the reopening of a final judgment Gonzalez, supra, Ackerman v. U.S., 340 U.S. 193, 199 (1950). Petitioner takes the position that a valid claim of lack of subject-matter jurisdiction, as in the instant matter, as proven, would certainly be an "extraordinary circumstance" justifying the reopening of the final judgment in the case at bar.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Honorable Court grants the relief of vacating the criminal judgment, nullifying the sentences received, and order immediate release from incarceration based on the fact that the court was without subject-matter jurisdiction in the case at bar. Moreover, petitioner contends that this demonstrative showing entitles him to relief from judgment or in the alternative a hearing on the matter.

Respectfully Submitted,


LEONARD T. WALKER (PRO-SE)
Reg. #04039-017
U.S.P. McCreary
P.O. Box 3000
Pine Knot, KY 42635

EXHIBITS 16

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

LEONARD THOMAS WALKER)	
)	
V.)	APPEAL No. 06-15462-C
)	Dkt No. 96-00076CR-3-RV-MD
UNITED STATES OF AMERICA)	
)	

MOTION FOR CERTIFICATE OF APPEALABILITY

COMES NOW LEONARD THOMAS WALKER ("Movant") pro-se and moves this Honorable Court for a Certificate of Appealability ("COA"). This Court has jurisdiction to review and grant this this motion pursuant to 28 USC 2253 (c)(1)(B).

STATEMENT OF THE CASE

Procedural Background:

The Movant, Leonard Walker, was indicted in the United States District Court for the Northern District of Florida for two counts involving allegations arising under 21 USC 841(a) and 846 (D.1). The United States filed a notice under 21 USC 851, (D.16), to enhance Walker's statutory maximum penalty. Movant, through retained counsel, filed a motion to suppress on December 12, 1996, (D.21). The motion claimed that the evidence to be used in trial against movant had been obtained as the result of an illegal search of movant's vehicle and motel room.

The suppression motion was denied on December 23, 1996, (D.29).

On January 7, 1997, after a two-day trial movant was found guilty of the charges in the indictment, (D.33). Movant was sentenced to life imprisonment on May 6, 1997, (D.42). The sentence was based on movant's prior convictions. Movant did appeal his conviction. In an unpublished per curiam decision, the Eleventh Circuit denied movant's appeal, (D.62).

Movant, on March 11, 1999, filed a timely motion to vacate, set aside or correct sentence pursuant to 28 USC 2255, (D.63). Movant, in his 2255 motion, claimed he had received ineffective assistance of counsel; additionally movant claimed he was entitled to an evidentiary hearing. This motion was denied as was the motion for a certificate of appealability regarding the denial of the 2255 motion, (D.70 and D.85).

Movant later filed a petition pursuant to 28 USC 1651, (D.112). Movant, in 2005 filed in the court a motion seeking permission to file a second or successive 2255, this motion was also denied, (D.138).

On July 24, 2006 movant filed the instant Rule 60(b)(6), (D.139). On August 3, 2006, the district court denied movant's Rule 60(b)(6), (D.141). Movant filed a timely notice of appeal on September 29, 2006, (D.146). The district court construed the notice of appeal as a motion for a certificate of appealability which was denied on October 10, 2006, (D.148). Additionally, the district court reasoned that an appeal would

not be taken in good faith, therefore denied in forma pauperis status as to the appeal. On October 11, 2006, the district court transmitted the Notice of Appeal to the Eleventh Circuit Court of Appeals, (D.149).

On October 17, 2006, the United States Court of Appeals for the Eleventh Circuit docketed the Notice of Appeal under appeal number 06015462-C, LEONARD THOMAS WALKER V. USA. The Office of the Clerk informed the movant that he had thirty (30) days in which to file a motion to proceed on appeal as a pauper and a motion for a certificate of appealability.

Movant now submita a motion for leave to proceed on appeal in forma pauperis and a motion for a certificate of appealability.

SUMMARY OF ARGUMENT

Movant argues that his Due Process rights as envisioned by the Fifth Amendment were egregiously denied when his federal trial and subsequent sentencing were based on an indictment that was not constitutionally procurred.

Movant further argues that the unconstitutionally procurred indictment was a nullity therefore the district court lacked the requisite jurisdiction to conduct the initial criminal proceedings. Moreover, movant contends that jurisdiction, or lack thereof, is an issue that can be raised at any time.

Additionally, movant claims that the requirement as set out

in 28 USC 2255 for a second or successive motion precludes the district court from addressing movant's substantial constitutional claims, however, Rule 60(b)(6), does allow claims of jurisdiction to be addressed on the merits by the district court.

Finally, notwithstanding the government's claim that there are no facts which must be further developed, movant takes the position that his claim of denial of Due Process regarding indictment procedures is a claim that if proven would necessarily entitle movant relief, therefore, an evidentiary hearing is clearly appropriate.

MEMORANDUM OF LAW

28 USC 2253, requires "a substantial showing of a denial of a constitutional right." 28 USC 2253(c)(2) (West Supp. 2006) The Supreme Court has interpreted the requirement to mean that:

(W)e reiterate that a person seeking a COA need only demonstrate a substantial showing of the denial of a constitutional right. 28 USC 2253(c)(2). A person satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.

Miller-El v Cockrell, 537 U.S. 322 (2003) (quoting Slack v. McDaniel, 529 U.S. 433, 481 (2000)). Furthermore, an

application for a COA must indicate which specific issue or issues "show that the applicant has suffered the denial of a constitutional right," Franklin v. Hightower, 215 F.3d. 1196, 1199 (11th Cir. 2002). Movant submits the following issues which demonstrate that; (1) he was denied his Fifth Amendment guarantee of Due Process regarding a constitutionally procured indictment; (2) the unconstitutionally procured indictment was a nullity that denied the district court jurisdiction to initiate or complete any federal proceedings in the case sub judice; (3) jurisdictional claims may be raised at any time; (4) Rule 60(b)(6) does allow claims of jurisdiction to be addressed on the merits by the district court, and (5) an evidentiary hearing should have been conducted regarding the jurisdictional issue of an unconstitutionally procured indictment.

I

MOVANT SUBMITS HE WAS DENIED HIS BASIC
FIFTH AMENDMENT RIGHT OF DUE PROCESS
REGARDING A CONSTITUTIONALLY PROCURED INDICTMENT

ANALYSIS

One of the sundamental precepts of the Constitution is "no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury" Const. Amend. V. The Fifth Amendment also guarantees that no citizen "will be deprived of life, liberty,

or property, without due process of law." Const. Amend. V
Clearly, the founding fathers saw an indictment issued by the
Grand Jury as part of due process.

The Supreme Court has consistently held that the Fifth
Amendment requires that a Grand Jury must be legally constituted.
Costello v. United States, 350 U.S. 359, 363 (1956). The
Grand Jury must have 16 to 23 members. Federal Rule of
Criminal Procedure Rule 6. (West Supp. 2006). The district
court will appoint one juror as the foreperson. The foreperson
may administer oaths and will sign all indictments. Fed. R.
Crim. P. 6(f). An indictment may issue only if at least 12
members of the Grand Jury concur on the indictment. Gaither v.
U.S., 413 F.2d. 1061, 1065 (D.C. Cir. 1969). The foreperson
cannot indict by himself nor can the U.S. attorney.

When an indictment is not brought by the grand jury there
is error in the subsequent criminal proceedings McCoy v. U.S.,
266 F.3d. 1245,1263 (11th Cir. 2001). A conviction or sentence
based on charges not initially brought by the Grand Jury "must
be per se reversed because, unlike most ordinary trial errors,
'an indictment found by a grand jury is indispensable to the
power of the court to try (the defendant) for the crime with
which he was charged.'" McCoy, 266 F.3d. at 1263 quoting
Ex Parte Bain, 121 U.S. 1, 12-13 (1887); See also, U.S. Macklin
523 F.2d. 193, 196 (2d Cir. 1975) (The absence of a legally

constituted indictment deprives the court of its power to act.) Moreover, the absence of a legally constituted indictment is a jurisdictional defect. Id. Cf. Smith v United States, 360 U.S. 1 (1959). The Supreme Court has undeviatingly held that "without indictment or presentment by a grand jury, the district court exceeds its jurisdiction, and the defendant is therefore entitled to be discharged." Ex Parte Wilson, 114 U.S. 417, 429 (1885).

In the case sub judice movant submits his sworn affidavit which states that his indictment was not returned by the required 12 grand jurors as mandated by Fed. R. Crim. P. 6(f). Petitioner swears that the indictment in the instant matter never went before the grand jury; instead, was signed by an unqualified grand juror which was sworn in as foreperson by the U.S. attorney in an act of expediency and an act that denied movant his Fifth Amendment right regarding indictment and due process.

The government argues that movant "is at best confused [or] at worst simply making up his allegations" (See Government Response, page 7). Nevertheless, all allegations in the context of this Rule 60(b)(6), must be taken as true, therefore, if true, the district court lacked the jurisdiction to conduct the criminal proceedings in the instant matter.

II

MOVANT SUBMITS THAT THE UNCONSTITUTIONAL INDICTMENT
WAS A NULLITY THAT DENIED THE DISTRICT COURT
JURISDICTION IN THE CASE AT BAR

ANALYSIS

It is well settled law that the absence of a legally constituted indictment deprives the district court of its power to act. U.S. v Macklin, 523 F.2d. 193, 196 (2d Cir. 1975) Taking this proposition of law into consideration, an unconstitutionally procured indictment is a nullity which necessarily deprives the district court of jurisdiction to hear the case. Macklin, 523 F.2d. at 196. The instant claim raises the same jurisdictional issues as Macklin, supra, and in the instant, if the claim were proven true the court was without jurisdiction to conduct criminal proceedings.

The district court failed to take into consideration that movant's Rule 60(b)(6), was a claim of jurisdictional matters. Federal courts have consistently held that jurisdictional matters may be raised at any time. See U.S. Adesida, 129 F.3d. 846, 850 (6th Cir. 1991). In the case at bar movant has made a claim that the district court, via a defective indictment, lack jurisdiction. This claim challenges the denial of a fundamental right as well as the power of the district court, moreover, this claim in the interest of justice should have been addressed on the merits by the district court.

III

MOVANT CONTENDS THAT HIS CLAIM OF LACK OF SUBJECT MATTER JURISDICTION FALLS SQUARELY WITHIN THE FRAMEWORK OF RULE 60(B)(6). MOREOVER, MOVANT CONTENDS THAT THE STANDARD OF REVIEW FOR A SECOND SECTION 2255 DEPRIVES HIM OF HIS CONSTITUTIONAL CLAIM.

ANALYSIS

The Supreme Court has explicitly held that:

Rule [60(b)(6)] also preserves parties' opportunity to obtain vacatur of a judgment that is void for lack of subject-matter jurisdiction--a consideration just as valid in habeas cases as in any other, since absence of jurisdiction altogether deprives a federal court of the power to adjudicate the rights of the parties.

Gonzalez v Crosby, 545 U.S. ___, 125 S.Ct. ___, 162 L.Ed. 2d 480 (2005) (citing to Steel Co. v Citizens for Better Environment, 523 U.S. 83, 94, 101, 118 S.Ct. 1003, 140 L.Ed. 2d 210 (1998)).

While jurisdiction may be a legitimate claim the Court has also held "[A] movant seeking relief under Rule 60(b)(6) [must] [] show 'extraordinary circumstances' justifying the reopening of a final judgement." Gonzalez v Crosby, supra; Ackerman v United States, 340 U.S. 193, 199, 71 S.Ct. 209, 95 L.Ed. 207 (1950).

Movant claims that a unconstitutionally procured indictment which resulted in lack of subject matter jurisdiction and a denial of due process equals "extraordinary circumstances" that justify the reopening of the final judgement in the case

sub judice.

Regarding movant's claim of lack of subject-matter jurisdiction and a second Section 2255 motion, Section 2255 clearly states "a second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain:

- (1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish . . . that no reasonable fact finder would have found the movant guilty of the offense; or
- (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court that was previously unavailable. 28 U.S.C. §2255 (West Supp. 2006)

Movant's jurisdictional claim does not rely on a newly discovered evidence that would demonstrated to a reasonable fact finder that movant was not guilty; nor, does the claim rely on a new constitutional law, however the constitutional claim must be addressed and Rule 60(b)(6) is the proper vehicle for reopening the final judgement.

IV

MOVANT CONTENDS THAT THE DISTRICT COURT DENIED HIM
DUE PROCESS OF LAW BY NOT CONDUCTING AN
EVIDENTIARY HEARING IN THE INSTANT MATTER

ANALYSIS

In the case at bar movant made a "facial attack" in his challenge to the court's subject matter jurisdiction. A facial attack "contests the sufficiency of the pleadings, and the trial court must accept the complaint's allegations as true." Turicentro, S.A. v Am. Airlines Inc., 303 F.3d 293, 300 n.4 (3d Cir. 2002); see also, Thigpen v U.S., 800 F.2s 393, 401 n. 15(4th Cir. 1986)("if a 'facial attack' is made, the court must accept the allegations in the complaint as true and decide if the complaint is sufficient to confer subject matter jurisdiction".) Since the allegations must be accepted as true as in the instant matter, then, if proven true, movant would clearly be entitled to relief. This is the standard of review for an evidentiary hearing. See Townsend v Sain, 372 U.S. 293 (1963). Movant reiterates his position that based on the allegations included in his Rule 60(b)(6) motion that amount to a "facial attack", the district court in failing to conduct an evidentiary hearing denied movant due process of law.

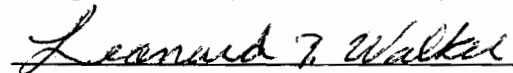
CONCLUSION

Movant contends he has demonstrated that he was denied due process of law regarding a constitutionally procured indictment; moreover, movant submits that the irregularities in the procurement of the instant indictment denigrates the integrity of the judicial proceedings and have egregiously affected his substantial rights.

PRAYER

Movant prays that this Honorable Court remand this case back to the district court for the purposes of an evidentiary hearing.

Respectfully Submitted,



LEONARD THOMAS WALKER (pro se)
04039-017

U.S.P. McCreary

P.O. Box 3000

Pine Knot, KY 42635

cc: clerk of court
U.S attorney's office, Pensacola, Fl.
file (rs)

EXHIBITS 17

APPEAL, CLOSED

**U.S. District Court
Northern District of Florida (Pensacola)
CRIMINAL DOCKET FOR CASE #: 3:96-cr-00076-RV-MD-1**

Case title: USA v. WALKER

Date Filed: 10/16/1996

Assigned to: SENIOR JUDGE ROGER
VINSON

Referred to: Magistrate Judge MILES
DAVIS

Appeals court case numbers: 06-15462-
C, 07-10415-B, 08-10642-B USCA

Defendant (1)**LEONARD THOMAS WALKER**represented by **LEONARD THOMAS WALKER**

04039-017
FEDERAL CORRECTIONAL
INSTITUTION
PO BOX 1500
BUTNER, NC 27509

JAMES E TAYLOR, JR
JAMES E TAYLOR JR PA -
ORLANDO FL
126 E JEFFERSON ST
ORLANDO, FL 32801-1804
407/843-4310
TERMINATED: 03/20/2003
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

TED A STOKES
TED A STOKES PA - MILTON FL
PO BOX 84
MILTON, FL 32572
850-623-3260
Fax: 850-623-3205
Email: tasatty@mchsi.com
TERMINATED: 03/20/2003
ATTORNEY TO BE NOTICED
Designation: Retained

Pending Counts

None

Highest Offense Level (Opening)

None

Terminated Counts

21:846=CD.F CONSPIRACY TO
DISTRIBUTE CONTROLLED
SUBSTANCE
(1)

21:841A=CD.F CONTROLLED
SUBSTANCE - SELL, DISTRIBUTE,
OR DISPENSE
(2)

Disposition**Disposition**

Custody BOP Life on each count, to run
concurrently one w/other; if released,
10 yrs Sup Rele on each count, to run
concurrently one w/other; \$100 SMA
each count (total \$200) P'cola Cr Book
1997

Custody BOP Life on each count, to run
concurrently one w/other; if released,
10 yrs Sup Rele on each count, to run
concurrently one w/other; \$100 SMA
each count (total \$200) P'cola Cr Book
1997

Highest Offense Level (Terminated)

Felony

Complaints

None

Disposition**Plaintiff**

USA

represented by **BENJAMIN W BEARD**
US ATTORNEY - PENSACOLA FL
NORTHERN DISTRICT OF
FLORIDA
21 E GARDEN ST
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NORTHERN DISTRICT OF

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 850/444-4000
 Fax: 434-9050
TERMINATED: 07/15/1999
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/16/1996	1	INDICTMENT as to LEONARD THOMAS WALKER (1) count(s) 1, 2 (Copies sent to AUSA, USPO, RV, SMN, FPD and USM) (jra,Pensacola) (Entered: 10/17/1996)
10/16/1996	2	INFORMATION SHEET as to defendant LEONARD THOMAS WALKER in Location Status of LO (jra,Pensacola) (Entered: 10/17/1996)
10/16/1996	3	ORDER as to LEONARD THOMAS WALKER, for issuance of Arrest warrant; warrant issued. (Signed by Magistrate Judge Susan M. Novotny) (Copies mailed as indicated on document.) (jra,Pensacola) (Entered: 10/17/1996)
11/06/1996	4	PETITION by USA for Writ of Habeas Corpus ad prosequendum as to LEONARD THOMAS WALKER (jra,Pensacola) (Entered: 11/06/1996)
11/06/1996		WRIT of Habeas Corpus ad Prosequendum issued as to LEONARD THOMAS WALKER for 11/15/96 (jra,Pensacola) (Entered: 11/06/1996)
11/14/1996	5	Arrest WARRANT Returned Executed as to LEONARD THOMAS WALKER on (ijm,Pensacola) (Entered: 11/15/1996)
11/15/1996	6	INITIAL APPEARANCE Minutes as to LEONARD THOMAS WALKER held Arraignment set for 8:15 11/19/96 for LEONARD THOMAS WALKER ; Detention Hearing set for 11:00 11/19/96 for LEONARD THOMAS WALKER [Court Reporter: recorder] (Defendant informed of rights.) (ijm,Pensacola) (Entered: 11/15/1996)
11/15/1996	7	ORDER Appointing Federal Public Defender for LEONARD THOMAS WALKER (Signed by Magistrate Judge Susan M. Novotny) (Copies mailed as indicated on document.) (ijm,Pensacola) (Entered: 11/15/1996)
11/15/1996	8	ORDER OF TEMPORARY DETENTION as to LEONARD THOMAS WALKER Detention Hearing set for 11:00 11/19/96 for LEONARD THOMAS WALKER (Signed by Magistrate Judge Susan M. Novotny) (Copies mailed as indicated on document.) (ijm,Pensacola) (Entered: 11/15/1996)
11/15/1996	9	NOTICE of Hearing as to LEONARD THOMAS WALKER, Setting Arraignment for 8:15 11/19/96 for LEONARD THOMAS WALKER (Copies mailed as indicated on document.) (ijm,Pensacola) (Entered: 11/15/1996)

		11/15/1996)
11/19/1996	10	NOTICE of Appearance for LEONARD THOMAS WALKER by Attorney James E. Taylor Jr. (jpl,Pensacola) (Entered: 11/19/1996)
11/19/1996	11	ARRAIGNMENT as to LEONARD THOMAS WALKER held [Court Reporter: John M. Suda] Plea not guilty as charged. (jpl,Pensacola) (Entered: 11/19/1996)
11/19/1996	12	STANDING ORDER AND NOTICE to Retained Criminal Defense Attorneys as to LEONARD THOMAS WALKER (Signed by Judge Roger Vinson) (Copies mailed as indicated on document.) (jpl,Pensacola) (Entered: 11/19/1996)
11/19/1996	13	ORDER SETTING TRIAL as to LEONARD THOMAS WALKER setting Jury Trial for 9:00 1/6/97 for LEONARD THOMAS WALKER (Signed by Judge Roger Vinson) (Copies mailed as indicated on document) (jpl,Pensacola) (Entered: 11/19/1996)
11/19/1996	14	DETENTION HEARING Minutes as to LEONARD THOMAS WALKER held before Magistrate Judge Novotny. Order to enter detaining deft. [Court Reporter: Gail/Werizbecki] (jra,Pensacola) (Entered: 11/19/1996)
11/20/1996	15	ORDER OF DETENTION as to LEONARD THOMAS WALKER (Signed by Magistrate Judge Susan M. Novotny) (Copies sent to AUSA, USPO, USM, dft atty., and dft.) (Copies mailed as indicated on document.) (jra,Pensacola) (Entered: 11/20/1996)
11/25/1996	16	ENHANCEMENT INFORMATION by USA as to LEONARD THOMAS WALKER (cc: USPO) (jra,Pensacola) (Entered: 11/26/1996)
12/06/1996	17	NOTICE of Appearance for LEONARD THOMAS WALKER by Attorney Ted A. Stokes (jra,Pensacola) (Entered: 12/06/1996)
12/06/1996	18	MOTION by LEONARD THOMAS WALKER for extension of time to file a motion to suppress, etc. (jra,Pensacola) (Entered: 12/06/1996)
12/06/1996		Motion submission as to LEONARD THOMAS WALKER : [18-1] motion for extension of time to file a motion to suppress, etc. submitted as to LEONARD THOMAS WALKER (1) (jra,Pensacola) (Entered: 12/06/1996)
12/09/1996	19	RESPONSE by plaintiff USA Re: request for discovery (jra,Pensacola) (Entered: 12/09/1996)
12/09/1996	20	ORDER as to LEONARD THOMAS WALKER granting [18-1] motion for extension of time to file a motion to suppress, etc. as to LEONARD THOMAS WALKER (1) only through 12/12/96. This motion was not filed in accordance with L.R. 7.1(B) and counsel is advised that such noncompliance will routinely result in denial of the motion. (Signed by Judge Roger Vinson) (Copies mailed as indicated on document.) (jra,Pensacola) (Entered: 12/09/1996)

12/12/1996	21	MOTION by LEONARD THOMAS WALKER to Suppress (jra,Pensacola) (Entered: 12/12/1996)
12/12/1996	22	SUPPLEMENTAL MOTION by LEONARD THOMAS WALKER to Suppress (jra,Pensacola) (Entered: 12/12/1996)
12/12/1996		Motion submission as to LEONARD THOMAS WALKER : [22-1] motion to Suppress submitted as to LEONARD THOMAS WALKER (1), [21-1] motion to Suppress submitted as to LEONARD THOMAS WALKER (1) (jra,Pensacola) (Entered: 12/12/1996)
12/13/1996	23	NOTICE of Suppression Hearing of deft's motion & supplemental motion on 12/18/96 @ 1:30PM as to LEONARD THOMAS WALKER (Copies mailed as indicated on document.) (jpl,Pensacola) (Entered: 12/13/1996)
12/16/1996	24	AMENDED NOTICE of Suppression Hearing on 12/20/96 @ 1:30pm as to LEONARD THOMAS WALKER (Copies mailed as indicated on document.) (jpl,Pensacola) (Entered: 12/16/1996)
12/17/1996	25	SECOND AMENDED NOTICE of Suppression Hearing as to LEONARD THOMAS WALKER for 12/18/1996 @ 3:30PM (Copies mailed as indicated on document.) (jpl,Pensacola) (Entered: 12/17/1996)
12/17/1996	27	NOTICE of intent to introduce 404(b) evidence by USA as to LEONARD THOMAS WALKER (jra,Pensacola) (Entered: 12/19/1996)
12/17/1996	28	LETTER by USA to Mr. Taylor re: filing notice of intent to introduce evidence, as to LEONARD THOMAS WALKER (jra,Pensacola) (Entered: 12/19/1996)
12/18/1996	26	THIRD AMENDED NOTICE of Suppression Hearing for 12/23/96 @ 10AM as to LEONARD THOMAS WALKER (Copies mailed as indicated on document.) (jpl,Pensacola) (Entered: 12/18/1996)
12/23/1996		Copy of Document #12 (Standing Order and Notice to Retained Criminal Defense Attorney) as to deft LEONARD THOMAS WALKER mailed to Ted A. Stokes. (jpl,Pensacola) (Entered: 12/23/1996)
12/23/1996	29	Minute entry as to LEONARD THOMAS WALKER : Suppression Hearing held on deft's m/suppress. Court denies motion to suppress and order will be entered. Suppression Hearing Exhibits placed in manilla envelope/3d Floor Evidence Room. (jpl,Pensacola) Modified on 01/09/1997 (Entered: 12/23/1996)
12/23/1996	30	ORDER as to LEONARD THOMAS WALKER denying [22-1] motion to Suppress as to LEONARD THOMAS WALKER (1) (Signed by Judge Roger Vinson) (Copies mailed as indicated on document.) (jpl,Pensacola) (Entered: 12/23/1996)
01/06/1997		Voir dire begun as to LEONARD THOMAS WALKER (1) count(s) 1, as to LEONARD THOMAS WALKER (1) (jpl,Pensacola) (Entered: 01/07/1997)

01/06/1997		Jury selection as to LEONARD THOMAS WALKER held [Court Reporter: John M. Suda] (jpl,Pensacola) (Entered: 01/07/1997)
01/07/1997	31	Jury Trial Minutes as to LEONARD THOMAS WALKER. Jury Selection 1/6/97; Jury Trial 1/6-7/97. See attached Minute Sheets, Witness List, Exhibit List & Juror Challenge List. Defendant found Guilty of Counts I and II. Adjudication of guilt withheld until sentencing. ALL GOV'T TRIAL EXHIBITS RETURNED TO GOV'T. mailed as indicated on document.) (jpl,Pensacola) (Entered: 01/07/1997)
01/07/1997	32	Jury instructions as to LEONARD THOMAS WALKER (jpl,Pensacola) (Entered: 01/07/1997)
01/07/1997	33	JURY VERDICT of Guilty: LEONARD THOMAS WALKER (1) count (s) 1, 2 (jpl,Pensacola) (Entered: 01/07/1997)
01/07/1997	34	NOTICE of Hearing as to LEONARD THOMAS WALKER set Sentencing for 8:15 3/25/97 for LEONARD THOMAS WALKER (Copies mailed as indicated on document) (jpl,Pensacola) (Entered: 01/07/1997)
01/16/1997	35	MOTION by LEONARD THOMAS WALKER for New Trial (former employee) (Entered: 01/16/1997)
01/29/1997	36	RESPONSE by USA as to LEONARD THOMAS WALKER in opposition to [35-1] motion for New Trial (former employee) (Entered: 01/30/1997)
01/30/1997		Motion submission as to LEONARD THOMAS WALKER : [35-1] motion for New Trial submitted as to LEONARD THOMAS WALKER (1) (former employee) (Entered: 01/30/1997)
01/30/1997	37	ORDER denying [35-1] motion for New Trial as to LEONARD THOMAS WALKER (1) (Signed by Judge Roger Vinson) (Copies mailed as indicated on document.) (former employee) (Entered: 01/30/1997)
02/24/1997	38	USPO LETTER Re: PSR for for defendant LEONARD THOMAS WALKER (former employee) (Entered: 02/25/1997)
03/19/1997	39	MOTION by LEONARD THOMAS WALKER to Continue (former employee) (Entered: 03/19/1997)
03/19/1997		Motion submission as to LEONARD THOMAS WALKER : [39-1] motion to Continue sentencing submitted as to LEONARD THOMAS WALKER (1) (former employee) (Entered: 03/19/1997)
03/19/1997	40	ORDER as to LEONARD THOMAS WALKER granting [39-1] motion to Continue sentencing as to LEONARD THOMAS WALKER (1) (Signed by Judge Roger Vinson) (Copies mailed as indicated on document.) (former employee) (Entered: 03/19/1997)
03/20/1997	41	NOTICE of Hearing as to LEONARD THOMAS WALKER reset Sentencing for 10:00 5/6/97 for LEONARD THOMAS WALKER

		(Copies mailed as indicated on document.) (jpl,Pensacola) (Entered: 03/20/1997)
05/06/1997	42	SENTENCING Minutes held [Court Reporter: John M. Suda] LEONARD THOMAS WALKER (1) count(s) 1, 2. Deft adjudged guilty Counts 1 & 2 and sentenced to life imprisonment. See Formal Judgment. Defendant advised of appeal rights. (jpl,Pensacola) (Entered: 05/06/1997)
05/06/1997	43	JUDGMENT LEONARD THOMAS WALKER (1) count(s) 1, 2 . Custody BOP Life on each count, to run concurrently one w/other; if released, 10 yrs Sup Rele on each count, to run concurrently one w/other; \$100 SMA each count (total \$200) P'cola Cr Book 1997 (Signed by Judge Roger Vinson) (Copies mailed as indicated on document.) (jpl,Pensacola) (Entered: 05/07/1997)
05/09/1997	44	NOTICE OF APPEAL by LEONARD THOMAS WALKER (1) count(s) 1, 2 (Copies mailed as indicated on document.) (djb,Pensacola) (Entered: 05/09/1997)
05/09/1997	45	MOTION by LEONARD THOMAS WALKER, pro se to Proceed in Forma Pauperis on Appeal (djb,Pensacola) (Entered: 05/09/1997)
05/14/1997	46	ORDER as to LEONARD THOMAS WALKER denying [45-1] motion to Proceed in Forma Pauperis on Appeal until the Form 4 affidavit is filed as to LEONARD THOMAS WALKER (1) (Signed by Judge Roger Vinson) (Copies mailed as indicated on document.) (djb,Pensacola) (Entered: 05/14/1997)
05/14/1997	47	TRANSMITTAL of Notice of Appeal, Docs.#43,46 and certified copy of docket as to LEONARD THOMAS WALKER to USCA: [44-1] appeal (djb,Pensacola) (Entered: 05/14/1997)
06/02/1997	48	USCA Case Number as to LEONARD THOMAS WALKER Re: [44-1] appeal USCA Number: 97-2622 (djb,Pensacola) (Entered: 06/04/1997)
07/25/1997	49	USCA appeal fees received \$ 105.00 as to LEONARD THOMAS WALKER (Atty Taylor) Re: [44-1] appeal USCA#97-2622 (djb,Pensacola) Modified on 07/28/1997 (Entered: 07/28/1997)
07/28/1997	50	TRANSMITTAL LETTER to USCA re: payment of filing fee as to LEONARD THOMAS WALKER USCA#97-2622 (djb,Pensacola) (Entered: 07/28/1997)
08/08/1997	51	USDC copy of Appeal Info Sheet as to LEONARD THOMAS WALKER USCA#972622 (djb,Pensacola) (Entered: 08/12/1997)
08/18/1997	52	TRANSCRIPT of Hearing-Motion to Suppress filed in case as to LEONARD THOMAS WALKER for dates of 12/23/96 Court Reporter:John Suda (djb,Pensacola) (Entered: 08/19/1997)
08/18/1997	53	TRANSCRIPT of Jury Trial (vol1) filed in case as to LEONARD THOMAS WALKER for dates of 1/6/97 Court Reporter: John Suda (djb,Pensacola) (Entered: 08/19/1997)

08/18/1997	54	TRANSCRIPT of Jury Trial (vol2) filed in case as to LEONARD THOMAS WALKER for dates of 1/7/97 Court Reporter: John Suda (djb,Pensacola) (Entered: 08/19/1997)
08/21/1997	55	Judgment Returned Executed as to LEONARD THOMAS WALKER on 08/07/97 at location: FCI Marianna, Florida. (former employee) (Entered: 08/21/1997)
09/19/1997	56	REQUEST/DEMAND as to LEONARD THOMAS WALKER for Certificate of Readiness USCA#97-2622 (djb,Pensacola) (Entered: 09/19/1997)
09/19/1997	57	CERTIFICATE OF READINESS consisting of 4 Volumes (1 Pleading, 3 Transcripts) and 2 Exhibits (1PSI, 1 Envelope) as to LEONARD THOMAS WALKER USCA# 97-2622 Re: [44-1] appeal by LEONARD THOMAS WALKER (mailed to USCA) (djb,Pensacola) (Entered: 09/19/1997)
10/08/1997	58	ACKNOWLEDGMENT from USCA of receipt of Cert.of Readiness as to LEONARD THOMAS WALKER USCA#97-2622 (djb,Pensacola) (Entered: 10/08/1997)
10/08/1997		PSI received from PSI to be part of Record on Appeal as to LEONARD THOMAS WALKER USCA#97-2622 (djb,Pensacola) (Entered: 10/08/1997)
01/15/1998	59	REQUEST/DEMAND as to defendant LEONARD THOMAS WALKER for Record on Appeal USCA#97-2622 (djb,Pensacola) (Entered: 01/15/1998)
01/15/1998	60	Certified and transmitted record on appeal to U.S. Court of Appeals as to LEONARD THOMAS WALKER : [44-1] appeal USCA#97-2622 - 4 Volumes (1 Pleading, 4 transcripts) and 2 Exhibits (1 PSI and 1 Env.) (djb,Pensacola) (Entered: 01/15/1998)
02/11/1998	61	ACKNOWLEDGEMENT.....from ECCA, of receipt of ROA (consisting of 1 volume pldgs, 3 volumes transcripts, 2 exhibits [1 psi, 1 envelope]) as to LEONARD THOMAS WALKER (cbj,Pensacola) (Entered: 02/13/1998)
04/20/1998		Record on Appeal as to LEONARD THOMAS WALKER returned from U.S. Court of Appeals: [44-1] appeal consisting of one volume of pleadings, 3 volumes of transcripts, 1 exhibit (PSI) (sps,Pensacola) (Entered: 04/21/1998)
04/20/1998	62	MANDATE OF USCA (certified copy) as to LEONARD THOMAS WALKER Re: [44-1] appeal affirming judgment/order (1) count(s) 1, 2 of sentence imposed by District Court (before Circuit Judges Birch and Marcus and Sr. Judge Hill) (sps,Pensacola) (Entered: 04/22/1998)
03/11/1999	63	MOTION by LEONARD THOMAS WALKER to Vacate under 28 U.S.C. 2255 (Civil Action # 3:99cv113/RV/MD) (ijm,Pensacola) (Entered: 03/12/1999)

03/12/1999		Motion(s) referred to Magistrate Judge Miles Davis as to LEONARD THOMAS WALKER : [63-1] motion to Vacate under 28 U.S.C. 2255 (ijm,Pensacola) (Entered: 03/12/1999)
03/15/1999	64	ORDER directing clerk to furnish a copy of this order and of the motion to set aside sentence to the U. S. Atty. who shall have sixty (60) days to respond by Magistrate Judge Miles Davis as to defendant LEONARD THOMAS WALKER Copies sent as noted on document. (ijm,Pensacola) (Entered: 03/15/1999)
05/05/1999	65	RESPONSE by USA as to LEONARD THOMAS WALKER re [63-1] motion to Vacate under 28 U.S.C. 2255. (ijm,Pensacola) (Entered: 05/05/1999)
05/05/1999	65	MOTION by USA as to LEONARD THOMAS WALKER for Summary Judgment (ijm,Pensacola) (Entered: 05/05/1999)
05/05/1999		Motion(s) referred to Magistrate Judge Miles Davis as to LEONARD THOMAS WALKER : [65-1] motion for Summary Judgment, [63-1] motion to Vacate under 28 U.S.C. 2255 (ijm,Pensacola) (Entered: 05/05/1999)
05/10/1999	66	ORDER giving petitioner thirty (30) days 6/10/99 to file reply to government's response by Magistrate Judge Miles Davis as to defendant LEONARD THOMAS WALKER Copies sent as noted on document. (ijm,Pensacola) (Entered: 05/10/1999)
05/20/1999	67	TRANSCRIPT re: [42-1] sentencing hearing Date(s): May 6, 1997 Court Reporter/Tape Number: John Suda Number of Pages: 12 Re: sentencing as to defendant LEONARD THOMAS WALKER (former employee) (Entered: 05/24/1999)
06/15/1999		File Returned to Court: to Magistrate Judge Miles Davis Re: [66-1] order (jrm,Pensacola) (Entered: 06/15/1999)
06/22/1999	68	REPORT AND RECOMMENDATIONS by Magistrate Judge Miles Davis as to defendant LEONARD THOMAS WALKER that [63-1] motion to Vacate under 28 U.S.C. 2255 should be DENIED Motion(s) no longer referred: [63-1] motion to Vacate under 28 U.S.C. 2255 Objections to R and R due by 7/6/99 Copies sent as noted on document. (jrm,Pensacola) (Entered: 06/23/1999)
07/07/1999	69	OBJECTION by LEONARD THOMAS WALKER to [68-1] report and recommendations (jra,Pensacola) (Entered: 07/13/1999)
07/13/1999		File Returned to Court: to Judge Roger Vinson Re: [69-1] objection by LEONARD THOMAS WALKER (jra,Pensacola) (Entered: 07/13/1999)
07/14/1999	70	ORDER by Judge Roger Vinson as to LEONARD THOMAS WALKER denying [63-1] motion to Vacate under 28 U.S.C. 2255 as to LEONARD THOMAS WALKER (1) Copies sent as noted on document. (jra,Pensacola) (Entered: 07/15/1999)
08/02/1999	71	NOTICE OF APPEAL by defendant LEONARD THOMAS WALKER

		by LEONARD THOMAS WALKER (1) count(s) 1, 2 Copies sent as noted on document. (former employee) (Entered: 08/02/1999)
08/02/1999	72	TRANSMITTAL of Notice of Appeal, order, R&R, and certified copy of docket as to defendant LEONARD THOMAS WALKER to USCA: [71-1] appeal (former employee) (Entered: 08/02/1999)
08/09/1999	73	USCA #: as to LEONARD THOMAS WALKER Re: [71-1] appeal USCA Number: 99-12652-J (former employee) (Entered: 08/10/1999)
08/09/1999	74	LETTER from USCA to L Walker re: case has been docketed in this court USCA#99-12652-J (former employee) (Entered: 08/10/1999)
09/07/1999	75	MANDATE OF USCA (certified copy) as to defendant LEONARD THOMAS WALKER Re: [71-1] appeal appeal is dismissed for want of prosecution because appellant has failed to pay the appeal filing fee LEONARD THOMAS WALKER (1) count(s) 1, 2 USCA#99-12652 (former employee) (Entered: 09/10/1999)
09/21/1999	76	MOTION by defendant LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER to Proceed in Forma Pauperis (former employee) (Entered: 09/21/1999)
09/21/1999		Motion(s) referred to Magistrate Judge Miles Davis as to LEONARD THOMAS WALKER : Motion to proceed IFP (former employee) Modified on 09/21/1999 (Entered: 09/21/1999)
09/23/1999		Motion submission with file to Judge Roger Vinson Re: [76-1] motion to Proceed in Forma Pauperis by LEONARD THOMAS WALKER (former employee) (Entered: 09/23/1999)
09/23/1999	77	ORDER by Judge Roger Vinson as to defendant LEONARD THOMAS WALKER denying [76-1] motion to Proceed in Forma Pauperis as to LEONARD THOMAS WALKER (1) Copies sent as noted on document. (former employee) (Entered: 09/23/1999)
09/23/1999	78	TRANSMITTAL LETTER from clerk's office to USCA re: transmit certified copy of document #77-order denying IFP (former employee) (Entered: 09/23/1999)
10/13/1999	79	AFFIDAVIT by defendant LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER Re: [76-1] motion to Proceed in Forma Pauperis and MOTION for appointment of counsel USCA# 99-12652 (former employee) (Entered: 10/13/1999)
10/13/1999		Motion submission with file to Judge Roger Vinson Re: motion for appointment of counsel and affidavit in support of motion to proceed on appeal in forma pauperis (former employee) (Entered: 10/13/1999)
10/20/1999	80	ORDER by Judge Roger Vinson as to defendant LEONARD THOMAS WALKER denying [79-1] affidavit as to LEONARD THOMAS WALKER (1)-"See Order of 9/23/99" Copies sent as noted on document. (former employee) Modified on 10/20/1999 (Entered: 10/20/1999)

10/20/1999	81	TRANSMITTAL LETTER from clerk's office to USCA re:transmit certified copy of document #81 USCA#99-12652 (former employee) (Entered: 10/20/1999)
11/19/1999	82	REQUEST from USCA as to defendant LEONARD THOMAS WALKER for original papers USCA#99-12652-J (former employee) (Entered: 11/22/1999)
11/22/1999	83	ORIGINAL PAPERS TO USCA Re: [47-1] transmitted appeal USCA# 99-12652-J Consisting of 2 volumes of pleadings and 4 volumes of transcripts (former employee) (Entered: 11/22/1999)
12/06/1999	84	ACKNOWLEDGMENT from USCA as to receipt of [83-1] as to defendant LEONARD THOMAS WALKER USCA#99-12652-J (former employee) (Entered: 12/08/1999)
02/04/2000	86	RECORD on Appeal as to LEONARD THOMAS WALKER returned from USCA Re: [71-1] appeal Consisting of 2 volumes of pleadings and 4 volumes of transcripts USCA #: 99-12652-J (former employee) (Entered: 02/07/2000)
02/04/2000	85	ORDER as to defendant LEONARD THOMAS WALKER Appellant's motion to reinstate appeal is GRANTED. Appellant's motion for a certificate of appealability is DENIED because appellant has failed to make a substantial showing of the denial of a constitutional right. Appellant's motion for leave to proceed on appeal in forma pauperis is DENIED as moot. Copies sent as noted on document. USCA#99-12652-J (former employee) (Entered: 02/07/2000)
05/10/2000		Resetting 90 day no activity deadline pursuant to N.D.Fla.Loc.R.41.1 to 8/8/00 (former employee) (Entered: 05/10/2000)
09/18/2000	87	MOTION (Extraordinary) by defendant LEONARD THOMAS WALKER to Vacate under 28 U.S.C. 2255 . See civil case number 3:00cv419/RV/MD. (sps,Pensacola) Modified on 09/25/2000 (Entered: 09/19/2000)
09/20/2000		Motion(s) referred to Magistrate Judge Miles Davis as to LEONARD THOMAS WALKER : [87-1] motion to Vacate under 28 U.S.C. 2255 (sps,Pensacola) (Entered: 09/20/2000)
09/26/2000	88	REPORT AND RECOMMENDATIONS by Magistrate Judge Miles Davis as to LEONARD THOMAS WALKER that [87-1] motion to Vacate under 28 U.S.C. 2255 should be denied Motion(s) no longer referred: [87-1] motion to Vacate under 28 U.S.C. 2255 Objections to R and R due by 10/10/00 Copies sent as noted on document. (jra,Pensacola) (Entered: 09/27/2000)
10/03/2000	89	OBJECTION by LEONARD THOMAS WALKER to [88-1] report and recommendations (jra,Pensacola) (Entered: 10/03/2000)
10/11/2000		File Returned to Court: to Judge Roger Vinson Re: [88-1] report and recommendations (jra,Pensacola) (Entered: 10/11/2000)

10/18/2000	90	ORDER by Judge Roger Vinson as to LEONARD THOMAS WALKER denying [87-1] motion to Vacate under 28 U.S.C. 2255 as to LEONARD THOMAS WALKER (1) Copies sent as noted on document. (jra,Pensacola) (Entered: 10/18/2000)
10/30/2000	91	2255 NOTICE OF APPEAL (Certificate of Appealability treated as Notice of Appeal) by defendant LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER Re: [90-1] order - Certificate of Readiness due 11/14/00 Transcript Order Form due on 11/29/00 (former employee) Modified on 11/03/2000 (Entered: 11/03/2000)
10/30/2000	91	MOTION by defendant LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER for Certificate of Appealability treated as notice of appeal (former employee) (Entered: 11/03/2000)
10/30/2000	92	MOTION by defendant LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER to Proceed in Forma Pauperis (former employee) (Entered: 11/03/2000)
11/03/2000	93	TRANSMITTAL of Notice of Appeal with certified copy of docket/judgment/order to USCA as to defendant LEONARD THOMAS WALKER Re: [91-1] 2255 appeal Copies sent as noted on document. (former employee) (Entered: 11/03/2000)
11/06/2000		File Returned to Court: to Judge Roger Vinson Re: [92-1] motion to Proceed in Forma Pauperis by LEONARD THOMAS WALKER, [91-1] motion for Certificate of Appealability treated as notice of appeal by LEONARD THOMAS WALKER (former employee) (Entered: 11/06/2000)
11/07/2000	94	ORDER by Judge Roger Vinson as to defendant LEONARD THOMAS WALKER denying [91-1] motion for Certificate of Appealability treated as notice of appeal as to LEONARD THOMAS WALKER (1)denying [92-1] motion to Proceed in Forma Pauperis as to LEONARD THOMAS WALKER (1) Copies sent as noted on document. (former employee) (Entered: 11/07/2000)
11/07/2000	95	USDC Letter Transmitting document [94-1] order to USCA Re: [91-1] 2255 appeal by LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER (former employee) (Entered: 11/07/2000)
11/08/2000	96	TRANSCRIPT Order Form - as to defendant LEONARD THOMAS WALKER No transcript requested Re: [91-1] 2255 appeal by LEONARD THOMAS WALKER (former employee) (Entered: 11/08/2000)
11/13/2000	97	USCA #: 00-15888-J as to LEONARD THOMAS WALKER Re: [91-1] 2255 appeal by LEONARD THOMAS WALKER (former employee) (Entered: 11/13/2000)

11/13/2000	98	USCA Letter Re: Appellate Procedures [91-1] 2255 appeal by LEONARD THOMAS WALKER Re: USCA #: 00-15888-J as to defendant LEONARD THOMAS WALKER (former employee) (Entered: 11/13/2000)
11/14/2000	99	CERTIFICATE of Readiness Re: [91-1] 2255 appeal by LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER - USCA # 00-15888-J CONSISTING OF: Number of Volumes of Pleadings: 1 Number of Volumes of Exhibits: 2 (1 PSI, 1 Box Prior appeal record) Copies sent as noted on document. (former employee) (Entered: 11/14/2000)
11/15/2000	100	USCA appeal fee paid as to defendant LEONARD THOMAS WALKER Re: [91-1] 2255 appeal FILING FEE \$ 105.00 RECEIPT # 300 102750 (former employee) (Entered: 11/16/2000)
11/16/2000	101	USDC Letter Transmitting document [100-1] fee appeal to USCA Re: [91-1] 2255 appeal by LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER (former employee) (Entered: 11/16/2000)
11/16/2000	102	USCA Letter Re: Appellate Procedures [91-1] 2255 appeal by LEONARD THOMAS WALKER Re: USCA #: 00-15888-J as to defendant LEONARD THOMAS WALKER (former employee) (Entered: 11/16/2000)
11/16/2000	103	USCA Acknowledgment Re: [91-1] 2255 appeal by LEONARD THOMAS WALKER Re: [94-1] order USCA #: 00-15888-J as to defendant LEONARD THOMAS WALKER (former employee) (Entered: 11/16/2000)
11/28/2000	104	USCA Acknowledgment Re: [91-1] 2255 appeal by LEONARD THOMAS WALKER Re: [100-1] fee appeal as to defendant LEONARD THOMAS WALKER (former employee) (Entered: 11/28/2000)
12/29/2000	105	REQUEST by: USCA by defendant LEONARD THOMAS WALKER for Original papers USCA#: 00-15888-J (former employee) (Entered: 12/29/2000)
12/29/2000	106	ORIGINAL PAPERS TO USCA Re: [91-1] 2255 appeal by LEONARD THOMAS WALKER USCA# 00-15888-J CONSISTING OF: Number of Volumes of Pleadings: 1 Number of Volumes of Exhibits: 2 (1 box prior appeal record & 1 PSI (former employee) (Entered: 12/29/2000)
01/12/2001	107	USCA Acknowledgment Re: [91-1] 2255 appeal by LEONARD THOMAS WALKER Re: [106-1] Original Papers USCA #: 00-15888-J as to defendant LEONARD THOMAS WALKER (former employee) (Entered: 01/16/2001)
02/23/2001	108	USCA Order in lieu of Mandate dismissing Re: [93-1] transmitted appeal as to defendant LEONARD THOMAS WALKER by: USCA USCA #: 00-15888-J (former employee) (Entered: 02/26/2001)
02/23/2001	109	ORIGINAL Papers Returned from USCA Re: [91-1] 2255 appeal by

		LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER USCA #: 00-15888-J CONSISTING OF: Number of Volumes of Pleadings: 1 Number of Volumes of Transcripts: 1 Sealed Number of Volumes of Exhibits: 1 PSI (former employee) (Entered: 02/26/2001)
03/05/2001	110	NOTICE of Motion of Reconsideration filed with the Court of Appeals by LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER (former employee) (Entered: 03/07/2001)
03/28/2001		Pursuant to Local Rule 5.2 (Disposition of Exhibits) which states under (B): "In all cases in which an appeal is taken, all exhibits shall be retrieved within thirty (30) days after the filing and recording of the mandate of the appellate court finally disposing of the case" and (C) which states: "If exhibits are not retrieved as required by this rule, the clerk may destroy them or make such other disposition as may be authorized by the court", the government Exhibit 1 (copy search warrant & affidavit) and Defense Exhibits 1 & 2 (auto photograph & motel key card) were destroyed on 3/28/01 (jpl,Pensacola) (Entered: 03/28/2001)
04/20/2001	111	USCA Order in lieu of Mandate dismissing Re: [72-1] transmitted appeal as to defendant LEONARD THOMAS WALKER by: USCA USCA #: 00-15888-J (former employee) (Entered: 04/23/2001)
02/25/2003	112	PETITION/MOTION by defendant LEONARD THOMAS WALKER for Writ of Mandamus (of Audita Querela Filed under 28 USC 1651) (sps,Pensacola) (Entered: 02/27/2003)
03/04/2003		MOTION submission with file to Judge Roger Vinson Re: [112-1] motion for Writ of Mandamus by LEONARD THOMAS WALKER (sps,Pensacola) (Entered: 03/04/2003)
03/04/2003	113	ORDER by Judge Roger Vinson as to defendant LEONARD THOMAS WALKER denying [112-1] motion for Writ of Mandamus as to LEONARD THOMAS WALKER (1). Apprendi is not retroactive for collateral actions. Copies sent as noted on document. (sps,Pensacola) (Entered: 03/05/2003)
04/11/2003	114	NOTICE OF APPEAL by defendant LEONARD THOMAS WALKER Re: [113-1] order as to defendant LEONARD THOMAS WALKER Certificate of Readiness due 4/28/03 Transcript Order Form due on 5/12/03 (sps,Pensacola) (Entered: 04/14/2003)
04/17/2003	115	TRANSMITTAL of Notice of Appeal with certified copy of docket/judgment/order to USCA as to defendant LEONARD THOMAS WALKER Re: [114-1] appeal Copies sent as noted on document. (sps,Pensacola) (Entered: 04/17/2003)
04/25/2003	116	USCA #: 03-12014-D as to LEONARD THOMAS WALKER Re: [114-1] appeal by LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 04/28/2003)
04/25/2003	117	USCA Letter Re: Appellate Procedures [114-1] appeal by LEONARD

		THOMAS WALKER Re: USCA #: 03-12014-D as to defendant LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 04/28/2003)
04/29/2003	118	CERTIFICATE of Readiness Re: [114-1] appeal by LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER - USCA # 03-12014-D CONSISTING OF: Number of Volumes of Pleadings: 1 Number of Volumes of Exhibits: 3 (1 volume of pleadings and 1 expandable folder prior record on appeal) and 1 PSI. Copies sent as noted on document. (djb,Pensacola) (Entered: 04/29/2003)
04/30/2003	119	USCA appeal fee paid as to defendant LEONARD THOMAS WALKER Re: [114-1] appeal USCA #: 03-12014-D FILING FEE \$ 105.00 RECEIPT # 300 108705 (djb,Pensacola) (Entered: 05/01/2003)
05/01/2003	120	USDC Letter Transmitting document [119-1] fee appeal to USCA Re: [114-1] appeal by LEONARD THOMAS WALKER USCA#: 03-12014-D as to defendant LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 05/01/2003)
05/01/2003	121	TRANSCRIPT Order Form - as to defendant LEONARD THOMAS WALKER No Transcript requested Re: [114-1] appeal by LEONARD THOMAS WALKER USCA #: 03-12014-D (djb,Pensacola) (Entered: 05/02/2003)
05/12/2003	122	USCA Acknowledgment Re: [114-1] appeal by LEONARD THOMAS WALKER Re: [118-1] Certificate of Readiness USCA #: 03-12014-D as to defendant LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 05/12/2003)
05/12/2003	123	USCA Acknowledgment Re: [114-1] appeal by LEONARD THOMAS WALKER Re: [119-1] fee appeal USCA #: 03-12014-D as to defendant LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 05/13/2003)
05/13/2003		Deadline updated as to defendant LEONARD THOMAS WALKER for status of: Awaiting request for record. - Appeal Status Deadline is: 6/13/03 (djb,Pensacola) (Entered: 05/13/2003)
05/14/2003	124	MOTION by defendant LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER to Proceed in Forma Pauperis (djb,Pensacola) (Entered: 05/14/2003)
05/15/2003		Motion(s) referred with file to Magistrate Judge Miles Davis as to LEONARD THOMAS WALKER : [124-1] motion to Proceed in Forma Pauperis (djb,Pensacola) (Entered: 05/15/2003)
05/16/2003		Motion(s) no longer referred as to LEONARD THOMAS WALKER : [124-1] motion to Proceed in Forma Pauperis as to LEONARD THOMAS WALKER (1) (djb,Pensacola) (Entered: 05/16/2003)
05/16/2003		MOTION submission with file to Judge Roger Vinson Re: [124-1] motion to Proceed in Forma Pauperis by LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 05/16/2003)
05/19/2003	125	REQUEST by: USCA as to defendant LEONARD THOMAS WALKER

		for an order concerning the notice of appeal (to be construed as a motion for certificate of appealability), doc. no. 114, filed 4/11/03. USCA#: 03-12014-D (djb,Pensacola) (Entered: 05/19/2003)
05/19/2003	126	ORDER by Judge Roger Vinson as to defendant LEONARD THOMAS WALKER denying [124-1] motion to Proceed in Forma Pauperis as to LEONARD THOMAS WALKER (1) Copies sent as noted on document. (djb,Pensacola) (Entered: 05/19/2003)
05/19/2003	127	USDC Letter Transmitting document [126-1] order to USCA Re: [114-1] appeal by LEONARD THOMAS WALKER USCA#: 03-12014-D as to defendant LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 05/19/2003)
05/19/2003		File Returned to Court: to Magistrate Judge Miles Davis Re: [125-1] request demand (djb,Pensacola) (Entered: 05/19/2003)
05/21/2003	128	ORDER by Judge Roger Vinson as to defendant LEONARD THOMAS WALKER The defendant has filed a notice of appeal (doc. 114) of this court's order denying his petition for writ of audita querela. The Notice of Appeal is construed as a Certificate of Appealability . The defendant has not made a substantial showing of the denial of a consitutional right, and his request for a certificate of appealability, to the extent one is needed in this appeal, is DENIED. Motion for IFP (doc. 124) is moot, as the appellate filing fee was paid on April 30, 2003 (doc. 119). Copies sent as noted on document. (djb,Pensacola) (Entered: 05/21/2003)
05/22/2003	129	USDC Letter Transmitting document [128-1] order to USCA Re: [114-1] appeal by LEONARD THOMAS WALKER USCA#: Unknown (djb,Pensacola) (Entered: 05/22/2003)
05/27/2003	130	USCA Acknowledgment Re: [114-1] appeal by LEONARD THOMAS WALKER Re: [126-1] order USCA #: 03-12014-D as to defendant LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 05/28/2003)
06/05/2003	131	USCA Acknowledgment Re: [114-1] appeal by LEONARD THOMAS WALKER Re: [128-1] order USCA #: 03-12014-D as to defendant LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 06/06/2003)
06/05/2003	132	USCA Letter Re: Appellate Procedures [114-1] appeal by LEONARD THOMAS WALKER Re: USCA #: 03-12014-D Re: Certificate of Appealability as to defendant LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 06/06/2003)
06/05/2003	133	REQUEST by: USCA as to defendant LEONARD THOMAS WALKER for original papers USCA#: 03-12014-D (djb,Pensacola) (Entered: 06/06/2003)
06/09/2003	134	ORIGINAL PAPERS TO USCA Re: [114-1] appeal by LEONARD THOMAS WALKER USCA# 03-12014-D CONSISTING OF: Number of Volumes of Pleadings: 1 Number of Volumes of Exhibits: 3 folders (Prior Record on Appeal consisting of 1 volume of pleadings and 1 expandable folder consisting of 4 transcripts #52-54 and #67) and 1 PSI.

		(djb,Pensacola) (Entered: 06/09/2003)
06/09/2003		Deadline updated as to defendant LEONARD THOMAS WALKER for status of: Awaiting return of original papers - Appeal Status Deadline is: 8/11/03 (djb,Pensacola) (Entered: 06/09/2003)
06/16/2003	<u>135</u>	USCA Acknowledgment Re: [114-1] appeal by LEONARD THOMAS WALKER Re: [134-1] Original Papers USCA #: 03-12014-D as defendant LEONARD THOMAS WALKER (djb,Pensacola) (Entered: 06/17/2003)
07/18/2003	<u>136</u>	USCA Order in lieu of Mandate dismissing Re: [114-1] appeal by LEONARD THOMAS WALKER as to defendant LEONARD THOMAS WALKER USCA #: 03-12014-D Appellant's motion for a certificate of appealability, as construed from his notice of appeal is DENIED. (djb,Pensacola) (Entered: 07/21/2003)
07/18/2003	<u>137</u>	ORIGINAL Papers Returned from USCA Re: [114-1] appeal by LEONARD THOMAS WALKER as to defendant LEONARD THOMAS USCA #: 03-12014-D CONSISTING OF: Number of Volumes of Pleadings: 1 Number of Volumes of Exhibits: 2 folders - prior appeal record and 1 PSI. (djb,Pensacola) (Entered: 07/21/2003)
07/12/2005	<u>138</u>	ORDER of USCA (certified copy) as to LEONARD THOMAS WALKER re <u>114</u> Notice of Appeal. Because Walker has failed to make a prima facie showing of the existence of either of the grounds set forth in 2255, his application for leave to file a second or successive motion is hereby DENIED. (djb, Pensacola) (Entered: 07/15/2005)
07/24/2006	<u>139</u>	MOTION for relief of judgment pursuant to Rule 60(B)(6) by LEONARD THOMAS WALKER. (jrm, Pensacola) (Entered: 07/24/2006)
08/01/2006	<u>140</u>	RESPONSE in Opposition by USA as to LEONARD THOMAS WALKER re <u>139</u> MOTION for relief of judgment pursuant to Rule 60 (B)(6) (BEARD, BENJAMIN) (Entered: 08/01/2006)
08/01/2006		ACTION REQUIRED BY CHAMBERS: Chambers of Judge Vinson notified that action is needed Re: <u>140</u> RESPONSE in Opposition by USA as to LEONARD THOMAS WALKER re <u>139</u> MOTION for relief of judgment pursuant to Rule 60(B)(6) (BEARD, BENJAMIN) filed by USA,, <u>139</u> MOTION for relief of judgment pursuant to Rule 60(B)(6) filed by LEONARD THOMAS WALKER. (jrm, Pensacola) (Entered: 08/01/2006)
08/03/2006	<u>141</u>	ORDER denying <u>139</u> Motion for relief of judgment pursuant to Rule 60 (B)(6) as to LEONARD THOMAS WALKER (1). This motion is an attempt to file a second Section 2255 motion without Circuit approval. Signed by Judge ROGER VINSON on August 3, 2006. (jrm, Pensacola) (Entered: 08/03/2006)
08/18/2006	<u>142</u>	MOTION for Extension of Time (45 days) to File response to Government's response in opposition to movant's Rule 60(B)(6) by

		LEONARD THOMAS WALKER. (jrm, Pensacola) (Entered: 08/18/2006)
08/21/2006	<u>143</u>	MOTION to Amend/Correct <u>142</u> MOTION for Extension of Time to File filed by LEONARD THOMAS WALKER, by LEONARD THOMAS WALKER. (jrm, Pensacola) (Entered: 08/23/2006)
08/21/2006		ACTION REQUIRED BY CHAMBERS: Chambers of Judge Vinson notified that action is needed Re: <u>143</u> MOTION to Amend/Correct <u>142</u> MOTION for Extension of Time to File filed by LEONARD THOMAS WALKER, filed by LEONARD THOMAS WALKER, <u>142</u> MOTION for Extension of Time to File filed by LEONARD THOMAS WALKER (jrm, Pensacola) (Entered: 09/15/2006)
09/15/2006	<u>144</u>	ORDER denying <u>142</u> Motion for Extension of Time (45 days) to File response to Government's response in opposition to movant's Rule 60(B) (6)as to LEONARD THOMAS WALKER (1). Signed by Judge ROGER VINSON on September 15, 2006. (jrm, Pensacola) (Entered: 09/18/2006)
09/15/2006	<u>145</u>	ORDER denying <u>143</u> Motion to Amend/Correct <u>142</u> MOTION for Extension of Time to File as to LEONARD THOMAS WALKER (1). Signed by Judge ROGER VINSON on September 15, 2006. (jrm, Pensacola) (Entered: 09/18/2006)
09/29/2006	<u>146</u>	NOTICE OF APPEAL by LEONARD THOMAS WALKER re <u>141</u> Order on Motion for Miscellaneous Relief. (The notice of appeal is construed as a motion for certificate of appealability.) (djb, Pensacola) (Entered: 10/02/2006)
09/29/2006	<u>147</u>	MOTION for Certificate of Appealability by LEONARD THOMAS WALKER. (The notice of appeal is construed as a motion for certificate of appealability.) (djb, Pensacola) (Entered: 10/02/2006)
10/03/2006		ACTION REQUIRED BY CHAMBERS: Chambers of Judge Miles Davis notified that action is needed Re: <u>147</u> MOTION for Certificate of Appealability filed by LEONARD THOMAS WALKER, MOTIONS REFERRED to Magistrate Judge Miles Davis <u>147</u> MOTION for Certificate of Appealability as to LEONARD THOMAS WALKER (djb, Pensacola) (Entered: 10/03/2006)
10/10/2006	<u>148</u>	ORDER denying <u>147</u> Motion for Certificate of Appealability as to LEONARD THOMAS WALKER (1). Because the court finds the defendant has not made the requisite showing for the reasons stated in the court's order denying the motion (doc. 141), his request for a certificate of appealability is DENIED. Defendant has not filed a motion for leave to proceed in forma pauperis. The court finds that the appeal is not taken in good faith and he is not otherwise entitled to so proceed. Fed.R.App.P. 24(a)(3). Therefore, defendant shall pay the \$455.00 filing fee within thirty days. Signed by Judge ROGER VINSON on 10/10/2006. (djb) (Entered: 10/11/2006)
10/11/2006	<u>149</u>	Transmission of Notice of Appeal and Docket Sheet as to LEONARD THOMAS WALKER to US Court of Appeals re <u>146</u> Notice of Appeal

		and <u>148</u> Order denying Certificate of Appealability. (djb) (Entered: 10/11/2006)
10/18/2006	<u>150</u>	Mail Returned as Undeliverable. Re: <u>149</u> Transmission of Notice of Appeal and Docket Sheet as to LEONARD THOMAS WALKER to US Court of Appeals re <u>146</u> Notice of Appeal and <u>148</u> Order denying Certificate of Appealability. Mail sent to LEONARD T WALKER - Appeal Packet Mailed to LEONARD THOMAS WALKER, USP MCCREARY, U.S. PENITENTIARY, P O BOX 3000, PINE KNOT, KY 42635 (djb) (Entered: 10/20/2006)
10/19/2006	<u>151</u>	USCA Case Number as to LEONARD THOMAS WALKER 06-15462-C for <u>146</u> NOTICE OF APPEAL by LEONARD THOMAS WALKER (djb) (Entered: 10/20/2006)
10/19/2006	<u>152</u>	Mail Returned as Undeliverable. Mail sent to LEONARD THOMAS WALKER, Re: <u>148</u> ORDER denying <u>147</u> Motion for Certificate of Appealability as to LEONARD THOMAS WALKER (1). Mail sent to LEONARD T WALKER - USP MCCREARY, U.S. PENITENTIARY, P O BOX 3000, PINE KNOT, KY 42635 (djb) (Entered: 10/20/2006)
11/01/2006	<u>153</u>	MOTION to Compel the production of documentary evidence, and for the issuance of subpoenas by LEONARD THOMAS WALKER. (jrm) (Entered: 11/02/2006)
11/01/2006		Set/Reset Deadlines re Motion in case as to LEONARD THOMAS WALKER <u>153</u> MOTION to Compel the production of documentary evidence, and for the issuance of subpoenas. (<i>Internal deadline for referral to judge if response not filed earlier: 11/20/2006</i>) (jrm) (Entered: 11/02/2006)
11/14/2006	<u>154</u>	RESPONSE in Opposition by USA as to LEONARD THOMAS WALKER re <u>153</u> MOTION to Compel (BEARD, BENJAMIN) (Entered: 11/14/2006)
11/15/2006		ACTION REQUIRED BY CHAMBERS: Chambers of Judge Roger Vinson notified that action is needed Re: <u>154</u> RESPONSE in Opposition by USA as to LEONARD THOMAS WALKER re <u>153</u> MOTION to Compel (BEARD, BENJAMIN) filed by USA, <u>153</u> MOTION to Compel filed by LEONARD THOMAS WALKER (djb) (Entered: 11/15/2006)
11/20/2006	<u>155</u>	REQUEST by USCA for the original papers as to LEONARD THOMAS WALKER 06-15462-C. (djb) (Entered: 11/20/2006)
11/22/2006	<u>156</u>	ORDER denying <u>153</u> Motion to Compel as to LEONARD THOMAS WALKER. The requested relief is DENIED. Signed by Judge ROGER VINSON on 11/22/2006. (djb) (Entered: 11/27/2006)
12/04/2006	<u>157</u>	ORIGINAL PAPERS sent to USCA re <u>146</u> Notice of Appeal Number of Pleadings/Volumes:1; Number of Exhibits:2 (djb) (Entered: 12/04/2006)
12/08/2006	<u>159</u>	USCA Acknowledgement <u>157</u> Original Papers Sent to USCA as to LEONARD THOMAS WALKER USCA Appeal # 06-15462-C (djb) (Entered: 12/11/2006)

12/12/2006	<u>160</u>	MOTION for Reconsideration re <u>156</u> Order on Motion to Compel by LEONARD THOMAS WALKER. (jrm) (Entered: 12/13/2006)
12/12/2006		Set/Reset Deadlines re Motion in case as to LEONARD THOMAS WALKER <u>160</u> MOTION for Reconsideration re <u>156</u> Order on Motion to Compel. (<i>Internal deadline for referral to judge if response not filed earlier: 1/2/2007</i>) (jrm) (Entered: 12/18/2006)
01/08/2007	<u>161</u>	ORDER denying <u>160</u> Motion for Reconsideration re <u>160</u> MOTION for Reconsideration re <u>156</u> Order on Motion to Compel filed by LEONARD THOMAS WALKER as to LEONARD THOMAS WALKER (1). It is ORDERED that: (a) The requested relief is DENIED. (b) The defendant's Rule 60/Section 2255 motion has already been denied and this matter is obviously on appeal. Discovery at this point is totally inappropriate. Signed by Judge ROGER VINSON on 1/8/2007. (djb) (Entered: 01/08/2007)
01/17/2007	<u>162</u>	ORIGINAL PAPERS Returned from USCA re <u>146</u> Notice of Appeal Number of Pleadings/Volumes:1; Number of Exhibits:2 (1 folder and 1 PSI) (djb) (Entered: 01/18/2007)
01/17/2007	<u>163</u>	MANDATE of USCA (certified copy) Accordingly, appellant's motion for a COA is DENIED because he has failed to make a substantial showing of the denial of a consitutional right. 28 U.S.C. § 2253(c)(2). Appellant's motion for leave to proceed IFP is DENIED AS MOOT. re <u>146</u> Notice of Appeal by LEONARD THOMAS WALKER. USCA #06-15462-C. (djb) (Entered: 01/18/2007)
01/24/2007	<u>164</u>	NOTICE OF APPEAL by LEONARD THOMAS WALKER re <u>161</u> Order on Motion for Reconsideration, <u>156</u> Order on Motion to Compel. (appeal fee not paid) (djb) (Entered: 01/25/2007)
01/29/2007	<u>165</u>	Transmission of Notice of Appeal and Docket Sheet as to LEONARD THOMAS WALKER to US Court of Appeals re <u>164</u> Notice of Appeal (djb) (Entered: 01/29/2007)
02/05/2007	<u>166</u>	USCA Case Number 07-10415-B for <u>164</u> NOTICE OF APPEAL by LEONARD THOMAS WALKER (djb) (Entered: 02/06/2007)
02/05/2007	<u>167</u>	USCA PROCEDURAL LETTER re: <u>164</u> NOTICE OF APPEAL by LEONARD THOMAS WALKER. USCA Appeal # 07-10415-B (djb) (Entered: 02/06/2007)
02/12/2007	<u>168</u>	MOTION for Leave to Appeal In Forma Pauperis by LEONARD THOMAS WALKER. (djb) (Entered: 02/13/2007)
02/13/2007		ACTION REQUIRED BY CHAMBERS: Chambers of Judge Miles Davis notified that action is needed Re: <u>168</u> MOTION for Leave to Appeal In Forma Pauperis filed by LEONARD THOMAS WALKER, MOTIONS REFERRED to Magistrate Judge Miles Davis (djb) (Entered: 02/13/2007)
02/13/2007	<u>169</u>	ORDER denying <u>168</u> Motion for Leave to Appeal In Forma Pauperis as to LEONARD THOMAS WALKER (1). It is ORDERED this 13th day

		of February, 2007, that: (a) The requested relief is DENIED. (b) This appeal is not taken in good faith and defendant is not otherwise entitled to so proceed. Signed by Judge ROGER VINSON on 2/13/2007. (djb) Modified on 2/14/2007 (djb, Pensacola). (Entered: 02/14/2007)
02/15/2007	<u>171</u>	USCA PROCEDURAL LETTER re: <u>164</u> NOTICE OF APPEAL by LEONARD THOMAS WALKER USCA Appeal # 07-10415-B (djb) (Entered: 02/16/2007)
03/01/2007	<u>172</u>	REQUEST by USCA for the original papers. (djb) (Entered: 03/02/2007)
03/06/2007	<u>173</u>	ORIGINAL PAPERS sent to USCA re <u>164</u> Notice of Appeal Number of Pleadings/Volumes:1; Number of Exhibits:2 (1 folder prior appeal record and 1 PSI) (djb) (Entered: 03/06/2007)
03/14/2007	<u>174</u>	USCA Acknowledgement <u>173</u> Original Papers Sent to USCA as to LEONARD THOMAS WALKER USCA Appeal # 07-10415-B (djb) (Entered: 03/14/2007)
04/20/2007	<u>175</u>	ORIGINAL PAPERS Returned from USCA re <u>164</u> Notice of Appeal Number of Pleadings/Volumes:1; Number of Exhibits:2 (djb) (Entered: 04/20/2007)
04/20/2007	<u>176</u>	ORDER of USCA (certified copy) Appellant's motion to leave to proceed on appeal in forma pauperis is DENIED because the appeal is frivolous. re <u>164</u> Notice of Appeal by LEONARD THOMAS WALKER (djb) (Entered: 04/20/2007)
05/11/2007	<u>177</u>	MANDATE of USCA (certified copy) This appeal is hereby dismissed for want of prosecution because the appellant has failed to pay the \$455 appeal filing fees to the district court within the time fixed by the rules. re <u>164</u> Notice of Appeal by LEONARD THOMAS WALKER (djb) (Entered: 05/11/2007)
01/11/2008	<u>178</u>	MOTION - Writ of Habeas Corpus 28 USC Section 1651(A) to challenge subject matter jurisdiction by LEONARD THOMAS WALKER. (Attachments: # <u>1</u> Exhibits) (jrm) (Entered: 01/14/2008)
01/11/2008		Set/Reset Deadlines as to LEONARD THOMAS WALKER: Re: Motion doc. 178 (Internal deadline for referral to judge if response not filed earlier: 1/29/2008). (jrm) (Entered: 01/14/2008)
01/14/2008	<u>179</u>	MOTION for Recusal of Judge Vinson by LEONARD THOMAS WALKER. (jrm) (Entered: 01/15/2008)
01/14/2008		Set/Reset Deadlines as to LEONARD THOMAS WALKER: Re: doc. 179 Motion for Recusal of Judge Vinson (Internal deadline for referral to judge if response not filed earlier: 2/1/2008). (jrm) (Entered: 01/15/2008)
01/24/2008	<u>180</u>	ORDER denying for lack of jurisdiction <u>178</u> Motion - Writ of Habeas Corpus 28 USC Section 1651(A) to challenge subject matter jurisdiction as to LEONARD THOMAS WALKER (1). Signed by SENIOR JUDGE ROGER VINSON on January 24, 2008. (jrm) (Entered: 01/24/2008)

01/24/2008	<u>181</u>	ORDER denying for lack of jurisdiction <u>179</u> Motion for Recusal of Judge Vinson as to LEONARD THOMAS WALKER (1). Signed by SENIOR JUDGE ROGER VINSON on January 24, 2008. (jrm) (Entered: 01/24/2008)
02/07/2008	<u>182</u>	NOTICE OF APPEAL by LEONARD THOMAS WALKER re <u>180</u> Order on Motion for Miscellaneous Relief. No filing fee paid. (jmd) (Entered: 02/07/2008)
02/07/2008	<u>183</u>	MOTION for Certificate of Appealability (Notice of Appeal <u>182</u> construed as Motion for Certificate of Appealability) by LEONARD THOMAS WALKER. (jmd) (Entered: 02/07/2008)
02/07/2008		ACTION REQUIRED BY MAGISTRATE JUDGE: Chambers of MAGISTRATE JUDGE MILES DAVIS notified that action is needed Re: <u>183</u> MOTION for Certificate of Appealability. Motion referred to MILES DAVIS. (jmd) (Entered: 02/07/2008)
02/08/2008	<u>184</u>	Transmission of Notice of Appeal and Docket Sheet as to LEONARD THOMAS WALKER to US Court of Appeals re <u>182</u> Notice of Appeal. (jmd) (Entered: 02/08/2008)
02/08/2008		Set Deadlines as to LEONARD THOMAS WALKER re <u>182</u> Notice of Appeal: Clerk to check status of Appeal on 2/22/2008 . (jmd) (Entered: 02/08/2008)
02/11/2008	<u>185</u>	ORDER Denying <u>183</u> Motion for Certificate of Appealability as unnecessary and Denying Leave to Appeal in forma pauperis as to LEONARD THOMAS WALKER (1). Signed by SENIOR JUDGE ROGER VINSON on 02/11/2008. (jmd) (Entered: 02/11/2008)
02/11/2008	<u>186</u>	USDC LETTER Transmitting <u>185</u> ORDER Denying <u>183</u> Motion for Certificate of Appealability as unnecessary and Denying Leave to Appeal in forma pauperis as to LEONARD THOMAS WALKER (1). (jmd) (Entered: 02/11/2008)
02/19/2008	<u>187</u>	USCA Case Number 08-10642-B for <u>182</u> NOTICE OF APPEAL by LEONARD THOMAS WALKER re <u>180</u> Order on Motion for Miscellaneous Relief. (jmd) (Entered: 02/19/2008)
02/19/2008	<u>188</u>	USCA PROCEDURAL LETTER re: <u>182</u> NOTICE OF APPEAL by LEONARD THOMAS WALKER re <u>180</u> Order on Motion for Miscellaneous Relief, USCA Appeal # 08-10642-B. (jmd) (Entered: 02/19/2008)
02/19/2008	<u>189</u>	NOTICE OF APPEAL by LEONARD THOMAS WALKER re <u>181</u> Order on Motion for Recusal. No filing fee paid. (jmd) (Entered: 02/19/2008)

PACER Service Center
Transaction Receipt

02/20/2008 08:13:08			
PACER Login:	ux3939	Client Code:	
Description:	Docket Report	Search Criteria:	3:96-cr-00076-RV-MD
Billable Pages:	14	Cost:	1.12

EXHIBITS 18



U. S. Department of Justice

*Thomas F. Kirwin
United States Attorney
Northern District of Florida*

*111 North Adams Street, 4th Floor
Tallahassee, Florida 32301-1841
Telephone (850)942-8430
Fax (850)942-8424*

*21 East Garden Street, Suite 400
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Fax (850)432-7763*

*300 East University Avenue, Suite 310
Gainesville, Florida 32601-3330
Telephone (352)378-0996
Fax (352)338-7981*

Please Reply to: Pensacola

March 12, 2009

Leonard Thomas Walker
Federal Register Number 04039-017
Butner FCI Medium II
Post Office Box 1500
Butner, NC 27509

Re: United States v. Leonard T. Walker
Case Number 3:96cr76/RV

Mr. Walker,

I have been informed that you have repeatedly attempted to communicate with Robert W. Nance, who served as a juror in the Northern District of Florida. Your communications with Mr. Nance can be reasonably perceived as an attempt to harass, intimidate, corruptly influence or retaliate against him as a result of his service as a juror.

Cease and desist from contacting Mr. Nance.

Sincerely,

THOMAS F. KIRWIN
United States Attorney

A handwritten signature in black ink, appearing to be "Stephen P. Preisser".

STEPHEN P. PREISSER
Assistant United States Attorney

EXHIBITS 19

P.O. Box 1500
Butner, NC 27509

April 08, 2009

Attorney General Of the United States
DOJ
Attn: **The Hon. Eric Holder**
10th St. and Constitution Ave., NW
Washington, DC 20530

RE: Denial of Records & Prosecutorial Threat

Dear Attorney General Holder:


I come to you in good faith that you can assist me concerning the above cited matter.

Based on Case No. 3-96-CR-76-RV, I have continually suffered setbacks and hardships; pertaining to access to pertinent documents that may/will assist me in my legal endeavors. Please find attached a photo copy of the letter prepared by U.S. Attorney Thomas F. Kirwin, wherein he addresses my efforts to obtain an affidavit concerning the improper actions of the prosecution, in order to obtain an indictment in my case.

Mr. Holder, upon your receipt of this letter, it is my ardent desire that you will instruct the appropriate parties to provide me with the desired documents and records. In addition, I hope that you will order the production of the said documents without cost to the petitioner.

Thank you for your time and assistance in this matter, as I humbly await your reply.

Sincerely,


Leonard T. Walker

EXHIBITS 20

**UNITED STATES of America,
Plaintiff-Appellee, v. Judith Tomlinson
BULLOCK and Roy Rodriguez, Jr.,
Defendants-Appellants
UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT
448 F.2d 728; 1971 U.S. App. LEXIS 7906
No. 71-1067 Summary Calendar *
September 24, 1971**

Summary:

Posture:

Defendant appealed from the decision of the district court which denied his pretrial motion to dismiss the indictment against him and denied his collateral motion for a copy of the transcript of the proceedings before the grand jury.

Cite overview:

A criminal should have been accorded the right to inspect the record of the proceedings before the grand jury to insure that 12 or more grand jurors concurred in the finding and return of the substitute indictment.

Overview:

Defendant was convicted on the basis of an indictment filed. He filed a pretrial motion, seeking to dismiss the indictment because the three-count indictment, which was substituted for a six-count indictment filed in an earlier proceeding, was seen and signed only by the foreman of the grand jury. He argued that 12 or more grand jurors did not concur in the finding and return of the substitute indictment as required by Fed. R. Crim. P. 6(f). Defendant filed a collateral motion for a copy of the transcript of the testimony and proceedings before the grand jury. The district court denied both motions. On appeal, the court held that defendant should have been accorded the right to inspect the transcript to ascertain that Fed. R. Crim. P. 6(f) was met. The court determined that 28 U.S.C.S. § 2106 required that the district court provide the court with a copy of the record maintained pursuant to Fed. R. Crim. P. 6(c) or, if such record was not available, that the district court conduct a supplementary adversary hearing to determine whether the requirements of Rule 6(f) were in fact met with regard to the return of the

subject indictment.

Outcome:

In defendant's appeal of the district court's denial of his motion for a transcript of the proceedings before the grand jury that returned the indictment against him, the court remanded to the district court for a copy of the record of the proceedings. The court held that defendant should have been accorded the right to inspect the record to determine whether 12 or more grand jurors agreed in the finding and return of the substitute indictment.

Concepts:

Fed. R. Crim. P. 6(c) requires the foreman of a grand jury, or some other juror designated by him, to keep a record of the number of jurors concurring in the finding of every indictment and to file such record with the clerk of the court. That same rule provides that such record shall not be made public except upon order of the court.

Although a written transcript of grand jury proceedings is not constitutionally required, this rule does not intend to foreclose inquiry into those proceedings, nor insulate them from attack under Fed. R. Crim. P. 6.

Disposition

Remanded with directions.

Judges: Thornberry, Morgan and Clark, Circuit Judges.

Opinion

Opinion by:

BY THE COURT

{448 F.2d 728} The defendant Roy Rodriguez, Jr. and others were tried and convicted on the basis of an indictment filed on June 11, 1970. Rodriguez filed a spate of pretrial motions. One of his motions sought dismissal of this indictment. In this motion, defendant contended that the June 11, 1970 three-count indictment, which was substituted for a six-count indictment filed in an earlier proceeding, was drafted by the United States Attorney, was seen and signed only by the foreman of the grand jury, and that 12 or more grand jurors did not concur in the finding and return of the substitute indictment as required by {448 F.2d 729} Fed.R.Crim.P. 6(f). In a collateral motion, defendant moved the court for an order requiring production for his

inspection of a transcript of the testimony and proceedings before the grand jury which returned the present indictment, alleging that such production was essential for the development of the issue raised by his motion to dismiss. The district court denied both motions, stating as to the latter that the testimony of the grand jury was not recorded or transcribed and denying the former motion without reason.

Fed.R.Crim.P. 6(c) requires the foreman of a grand jury, or some other juror designated by him, to keep a record of the number of jurors concurring in the finding of every indictment and to file such record with the clerk of the court. That same rule provides that such record shall not be made public except upon order of the court. Under the rationale of *Dennis v. United States*, 384 U.S. 855, 86 S. Ct. 1840, 16 L. Ed. 2d 973 (1966), Part III, the defendant should have been accorded the right to inspect the required record or, if such record was not properly maintained, as required by the rule, to have access to some method of substituted proof to ascertain that the substantive provisions of Fed.R.Crim.P. 6(f) were met. Though the rule in this Circuit is settled that a written transcript of grand jury proceedings is not constitutionally required, *United States v. Harper*, 432 F.2d 100 (5th Cir. 1970), this rule does not intend to foreclose inquiry into those proceedings, nor insulate them from attack under Rule 6.

Under the provisions of 28 U.S.C.A. § 2106, this Court determines that justice under the circumstances here requires that the district court supplement the record before this Court with a copy of the record maintained pursuant to Fed.R.Crim.P. 6(c) or, if such record is not available, that the district court conduct a supplementary adversary hearing to determine whether the requirements of Fed.R.Crim.P. 6(f) were in fact met with regard to the return of the subject indictment.¹ In the event such an adversary hearing is conducted, a transcript thereof together with the findings and conclusions of the district judge thereon, shall be certified to this Court to supplement the record in the pending appeal. Jurisdiction of this appeal is

retained by this Court for all other purposes.
Remanded with directions.

Footnotes

Footnotes

* Rule 18, 5 Cir., *Isbell Enterprises, Inc. v. Citizens Casualty Company of New York et al.*, 5 Cir., 1970, 431 F.2d 409, Part I.

1 *Cf. Jackson v. Denno*, 378 U.S. 368, 84 S. Ct. 1774, 12 L. Ed. 2d 908, 1 A.L.R.3d 1205 (1964).

FLORIDA
 21 E GARDEN ST
 STE 400
 PENSACOLA, FL 32501
 850/444-4000
 Fax: 434-9050
 TERMINATED: 07/15/1999
 LEAD ATTORNEY
 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/16/1996	1	INDICTMENT as to LEONARD THOMAS WALKER (1) count(s) 1, 2 (Copies sent to AUSA, USPO, RV, SMN, FPD and USM) (jra,Pensacola) (Entered: 10/17/1996)
10/16/1996	2	INFORMATION SHEET as to defendant LEONARD THOMAS WALKER in Location Status of LO (jra,Pensacola) (Entered: 10/17/1996)
10/16/1996	3	ORDER as to LEONARD THOMAS WALKER, for issuance of Arrest warrant; warrant issued. (Signed by Magistrate Judge Susan M. Novotny) (Copies mailed as indicated on document.) (jra,Pensacola) (Entered: 10/17/1996)

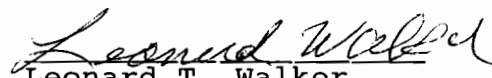
United States District Court
 Att: Clerk of the Court
 Northern District of Florida
 Pensacola, FL 32502

RE: Response Letter dated June 15, 2009

Upon your receipt of this letter and review of the docket sheet, again, I humbly request that I receive information pertaining to all records and names of the stenographers assigned to Case (3:96 CR76-001) during this particular day. On October 16, 1996.

Thank you for your time and assistance in this matter, as I humbly await your reply,

Sincerely,


 Leonard T. Walker
 Reg. No. 04039-017
 P.O. Box 1500
 Butner, NC 27509

CC: file